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# *The* **NORTH CAROLINA REGISTER**

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**ISSUE DATE: JULY 15, 1988**

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# INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

## NORTH CAROLINA REGISTER

The *North Carolina Register* is published bi-monthly and contains information relating to agency, executive, legislative and judicial actions required by or affecting Chapter 150B of the General Statutes. All proposed, administrative rules and amendments filed under Chapter 150B must be published in the Register. The Register will typically comprise approximately fifty pages per issue of legal text.

State law requires that a copy of each issue be provided free of charge to each county in the state and to various state officials and institutions. The *North Carolina Register* is available by yearly subscription at a cost of ninety-five dollars (\$95.00) for 24 issues.

Requests for subscriptions to the *North Carolina Register* should be directed to the Office of Administrative Hearings, P. O. Drawer 11666, Raleigh, N. C. 27604, Attn: *Subscriptions*.

## ADOPTION, AMENDMENT, AND REPEAL OF RULES

An agency intending to adopt, amend, or repeal a rule must first publish notice of the proposed action in the *North Carolina Register*. The notice must include the time and place of the public hearing; a statement of how public comments may be submitted to the agency either at the hearing or otherwise; the text of the proposed rule or amendment; a reference to the Statutory Authority for the action and the proposed effective date.

The Director of the Office of Administrative Hearings has authority to publish a summary, rather than the full text, of any amendment which is considered to be too lengthy. In such case, the full text of the rule containing the proposed amendment will be available for public inspection at the Rules Division of the Office of Administrative Hearings and at the office of the promulgating agency.

Unless a specific statute provides otherwise, at least 30 days must elapse following publication of the proposal in the *North Carolina Register* before the agency may conduct the required public hearing and take action on the proposed adoption, amendment or repeal.

When final action is taken, the promulgating agency must file any adopted or amended rule for approval by the Administrative Rules Review Commission. Upon approval of ARRC, the adopted or amended rule must be filed with the Office of Administrative Hearings. If it differs substantially from the proposed form published as part of the public notice, upon request by the agency, the adopted version will again be published in the *North Carolina Register*.

A rule, or amended rule cannot become effective earlier than the first day of the second calendar month after the adoption is filed with the Office of Administrative Hearings for publication in the NCAC.

Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency.

## TEMPORARY RULES

Under certain conditions of an emergency nature, some agencies may issue temporary rules. A temporary rule becomes effective when adopted and remains in

effect for the period specified in the rule or 180 days whichever is less. An agency adopting a temporary rule must begin normal rule-making procedures on the permanent rule at the same time the temporary rule adopted.

## NORTH CAROLINA ADMINISTRATIVE CODE

The North Carolina Administrative Code (NCAC) is a compilation and index of the administrative rules of 25 state agencies and 38 occupational licensing boards. The NCAC comprises approximately 15,000 letter single spaced pages of material of which approximately 35% is changed annually. Compilation and publication of the NCAC is mandated by G.S. 150B-63(b).

The Code is divided into Titles and Chapters. Each state agency is assigned a separate title which is further broken down by chapters. Title 21 is designated for occupational licensing boards.

The NCAC is available in two formats.

- (1) Single pages may be obtained at a minimum cost of two dollars and 50 cents (\$2.50) for pages or less, plus fifteen cents (\$0.15) per each additional page.
- (2) The full publication consists of 52 volumes totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. One year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication available.

Requests for pages of rules or volumes of the NCAC should be directed to the Office of Administrative Hearings.

## NOTE

The foregoing is a generalized statement of the procedures to be followed. For specific statutory language it is suggested that Articles 2 and 5 of Chapter 150B of the General Statutes be examined carefully.

## CITATION TO THE NORTH CAROLINA REGISTER

The *North Carolina Register* is cited by volume, issue number and date. 1:1 NCR 101-201, April 1, 1981 refers to Volume 1, Issue 1, pages 101 through 201 of the *North Carolina Register* issued on April 1, 1981.

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# NORTH CAROLINA REGISTER



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**NORTH CAROLINA REGISTER**  
*Publication Deadlines and Schedules*  
 (March 1988 - March 1989)

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing & Adoption by Agency	* Earliest Effective Date
*****	*****	*****	*****	*****
08 01/88	07/11/88	07/18/88	08/31/88	12/01/88
08 15/88	07/26/88	08/02/88	09/14/88	12/01/88
09 01/88	08 11/88	08 18/88	10/01/88	01/01/89
09 15/88	08 26/88	09/02/88	10/15/88	01/01/89
10 03/88	09/12/88	09/19/88	11/02/88	02/01/89
10 14/88	09/26/88	10/03/88	11/13/88	02/01/89
11 01/88	10 11/88	10/18/88	12/01/88	03/01/89
11 15/88	10 26/88	11/02/88	12/15/88	03/01/89
12 01/88	11 07/88	11/15/88	12/31/88	04/01/89
12 15/88	11 23/88	12/02/88	01/14/89	04/01/89
01 02/89	12 08/88	12/15/88	02/01/89	05/01/89
01 16/89	12 27/88	01/03/89	02/15/89	05/01/89
02 01/89	01 10/89	01/17/89	03/03/89	06/01/89
02 15/89	01 26/89	02/02/89	03/17/89	06/01/89
03 01/89	02 08/89	02/15/89	03/31/89	07/01/89
03 15/89	02 21/89	03/02/89	04/14/89	07/01/89

\* The "Earliest Effective Date" is computed assuming that the public hearing and adoption occur in the calendar month immediately following the "Issue Date", that the agency files the rule with The Administrative Rules Review Commission by the 20th of the same calendar month and that ARRC approves the rule at the next calendar month meeting.

**VOTING RIGHTS ACT FINAL DECISION LETTERS**

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*[G.S. 120-30.9H, effective July 16, 1986, requires that all letters and other documents issued by the Attorney General of the United States in which a final decision is made concerning a "change affecting voting" under Section 5 of the Voting Rights Act of 1965 be published in the North Carolina Register.]*

U.S. Department of Justice  
Civil Rights Division

WBR:LLT:TGL:ez  
DJ 166-012-3  
T9544-9548

Voting Section  
P.O. Box 66128  
Washington, D.C. 20035-6128

June 23, 1988

David A. Holec, Esq.  
City Attorney  
P.O. Box 1388  
Lumberton, North Carolina 28359-1388

Dear Mr. Holec:

This refers to the April 4, 1988, annexations to the City of Lumberton in Robeson County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on April 25, 1988.

The Attorney General does not interpose any objection to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such change. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division

By:

Gerald W. Jones  
Chief, Voting Section

**TITLE 2 - DEPARTMENT OF  
AGRICULTURE**

*Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Department of Agriculture, Structural Pest Control Committee intends to repeal regulation cited as 2 NCAC 34 .1001.*

*The proposed effective date of this action is November 1, 1988.*

*The public hearing will be conducted at 1:00 p.m. on August 17, 1988 at Hall of Fame, Rm. 101A, Agriculture Building, 1 W. Edenton Street, Raleigh, N.C.*

*Comment Procedures: Interested persons may present statements either orally or in writing at the public hearing or in writing prior to the hearing by mail addressed to David S. McLeod, Chairman of the Structural Pest Control Committee, P.O. Box 27647, Raleigh, North Carolina 27611.*

**CHAPTER 34 - STRUCTURAL PEST CONTROL  
DIVISION**

**SECTION .1000 - TIME FOR FILING  
COMPLAINTS**

**.1001 TIME FOR FILING COMPLAINTS  
(REPEALED)**

*Statutory Authority G.S. 106-65.29.*

**TITLE 10 - DEPARTMENT OF HUMAN  
RESOURCES**

*Notice is hereby given in accordance with G.S. 150B-12 that the Division of Health Services intends to amend regulations cited as 10 NCAC 4C .0303; 10 NCAC 7F .0107; 10 NCAC 8F .0111; 10 NCAC 10A .0309; 10 NCAC 10D .0702, .1006, .1313, .1622, .1624 - .1625, .1627, .2604; 10 NCAC 10F .0030, .0032 - .0033.*

*The proposed effective date of this action is December 1, 1988.*

*The public hearing will be conducted at 1:30 p.m. on August 17, 1988 at Archdale Building, Hearing Room (Ground Floor), 512 North Salisbury Street, Raleigh, North Carolina.*

*Comment Procedures: Any person may request information or copies of the proposed rules by*

*writing or calling John P. Barkley, Agency Legal Specialist, Division of Health Services, P.O. Box 2091, Raleigh, North Carolina 27602-2091, (919) 733-3134. Written comments on these rule changes may be sent to Mr. Barkley at the above address. Written and oral comments (no more than ten minutes for oral) on these rule changes may be presented at the public hearing. Notice should be given to Mr. Barkley at least three days prior to the public hearing if you desire to speak.*

**CHAPTER 4 - HEALTH SERVICES: OFFICE OF  
THE DIRECTOR**

**SUBCHAPTER 4C - PAYMENT PROGRAMS**

**SECTION .0300 - ELIGIBILITY PROCEDURES**

**.0303 PAYMENT LIMITATIONS**

(b) The State Health Director may limit program benefits for inpatient care that can be authorized when the total amount of outstanding authorizations, plus the estimated authorizations for the remainder of the fiscal year, less estimated cancellations, exceeds 90 percent of the program's cash balance.

*Statutory Authority G.S. 130A-5; 130A-124; 130A-127; 130A-129; 130A-177; 130A-205.*

**CHAPTER 7 - HEALTH: EPIDEMIOLOGY**

**SUBCHAPTER 7F - VETERINARY PUBLIC  
HEALTH**

**SECTION .0100 - VETERINARY PUBLIC  
HEALTH PROGRAM**

**.0107 APPROVED RABIES VACCINES**

The following rabies vaccines are approved for use in animals in this State:

(24) EPIRAB (Coopers Animal Health, Inc.)

*Statutory Authority G.S. 130A-185.*

**CHAPTER 8 - HEALTH: PERSONAL HEALTH**

**SUBCHAPTER 8F - SICKLE CELL SYNDROME:  
GENETIC COUNSELING; DEVELOPMENTAL  
DISABILITIES BRANCH**

**SECTION .0100 - SICKLE CELL SYNDROME  
PROGRAM**

**.0111 MEDICAL SERVICES PROVIDED**

(b) If an individual meets the eligibility requirements, he shall be provided the following medical services:

(1) For individuals below the age of 21, all outpatient and all inpatient care shall be paid for by the ~~Crippled~~ Children's Spe-

cial Health Services Program, including all hospital and physician fees. For individuals 21 years of age and older, all outpatient and all inpatient care shall be paid for by the Sickle Cell Syndrome Program. For individuals 21 years of age and older, all inpatient care, limited to no more than five days of care per hospitalization, shall be paid for by the Sickle Cell Syndrome Program.

*Statutory Authority G.S. 143B-193.*

**CHAPTER 10 - HEALTH SERVICES:  
ENVIRONMENTAL HEALTH**

**SUBCHAPTER 10A - SANITATION**

**SECTION .0300 - SANITATION OF LODGING  
PLACES**

**.0309 TOILETS; LAVATORIES; LOCKER  
ROOMS; AND BATHS**

(a) Every establishment shall be provided with adequate toilets, lavatory, and bathing facilities conveniently located, readily accessible, and conforming with the State Building Code, Volume II, which is adopted by reference (see .0317 of this Section). Adequate toilet and lavatory facilities shall be provided for employees. The lavatory and bathing facilities shall include hot and cold running water under pressure, individual towels, and soap. Employees' locker rooms shall be kept clean, painted and orderly. Toilet and wash rooms shall be well lighted and ventilated to the outside air through windows, through ducts having cross sectional areas of at least 72 square inches, or through mechanical systems. The floor area shall be at least 48 square feet for the minimum-sized toilet room containing one commode and one lavatory, or one commode and one urinal, and shall contain 40 square feet in addition for each additional plumbing fixture. Floors, walls, and ceilings shall be constructed of smooth, non-absorbent, washable materials; shall be painted with light colored washable paint unless finished in tile or equal; and shall be kept clean and in good repair. Fixtures shall be kept clean and in good repair.

(b) (a) In the case of new establishments Baths shall be provided for each room or unit in new establishments.

(c) Liquid Wastes. All sewage and other liquid wastes shall be disposed of in a public sewer system or, in the absence of a public sewer system, by a sanitary sewage disposal method approved as provided in "Sewage Disposal Systems," 40 NCAC 10A-1000, which is adopted by reference (see .0317 of this Section).

(b) All lavatory and bathing facilities shall include hot and cold running water under pressure, individual towels, and soap. Floors and walls shall be constructed of smooth, non-absorbent, washable materials.

(c) Floors, walls, and ceilings shall be kept clean and in good repair.

(d) All sewage or waste waters shall be disposed of in an approved sanitary sewage system that is found to be properly operating.

*Statutory Authority G.S. 130A-248.*

**SUBCHAPTER 10D - WATER SUPPLIES**

**SECTION .0700 - PROTECTION OF PUBLIC  
WATER SUPPLIES**

**.0702 DEFINITIONS**

(30) "Public water system"

(a) "Public Water System" means a system for the provision to the public of piped water for human consumption if such the system has at least serves 15 or more service connections or which regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Two or more water systems that are adjacent and are owned or operated by the same supplier of water and that together serve 15 or more service connections or 25 or more persons is a public water system. Such The term includes:

- (i) any collection, treatment, storage, and distribution facility under control of the operator of such system and used primarily in connection with such system; and
- (ii) any collection or pre-treatment storage facility not under such control which is used primarily in connection with such system.

(b) A public water system is either a "community water system," a "non-community water system" or a "non-transient, non-community water system":

- (i) "Community Water System" means a public water system which serves 15 or more service connections or which regularly serves at least 25 year-round residents.
- (ii) "Non-Community Water System" means a public water system which is not a community water system.
- (iii) "Non-transient, non-community water system" means a public water system that is not a community water system and that regularly serves at least 25 of the same persons for six or more months per year.

Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141.

SECTION .1000 - WATER SUPPLY DESIGN  
CRITERIA

.1006 DISTRIBUTION SYSTEMS

(b) Cross-Connections

- (7) No person shall fill special use tanks or tankers containing pesticides, fertilizers, other toxic chemicals or their residues from a public water system except at a location equipped with an over-the-rim free discharge of water or an approved reduced pressure backflow preventer properly installed on the public water supply. No supplier of water shall permit the filling of such special use containers except at locations so equipped.

Statutory Authority G.S. 130A-315; 130A-317; P.L. 93-523.

SECTION .1300 - PROTECTION OF FILTERED  
WATER SUPPLIES

.1313 GROUND ABSORPTION SEWAGE  
COLLECTION: TREATMENT/DISP  
SYSTEMS

(a) No facility, including but not limited to a residence, mobile home, mobile home park, multi-unit building or dwelling, place of business or place of public assembly on a lot located on a watershed of a class I or class II reservoir or on the watershed of the portion of a stream classified as WS-I, WS-II or WS-III extending from a class I reservoir to a downstream intake of a water purification plant shall use a ground absorption sewage disposal system unless all of the following criteria are met:

- (1) The lot includes at least 40,000 square feet, except as provided in Subparagraphs (a)(2) and (a)(3);
- (2) The lot shall include enough total area to equal an average of 40,000 square feet per residential dwelling unit for a multiple unit residential building or mobile home park;
- (3) The lot shall include enough total area to equal an average of 40,000 square feet per each 1250 gallons of wastewater generated each day for each business within a multiple unit place of business or place of public assembly. The anticipated wastewater generated shall be determined in accordance with 10 NCAC 10A .1949;
- (4) Other types of development shall include enough total area to equal an average of 40,000 square feet per residential dwelling

unit and at least 40,000 square feet per each 1250 gallons of wastewater generated each day by each business or place of public assembly. The lot for any business or place of public assembly for which the anticipated wastewater generated exceeds 1250 gallons per day will require an additional 40,000 square feet of area for each additional 1250 gallons per day or portion thereof. The anticipated wastewater generated shall be determined in accordance with 10 NCAC 10A .1949.

- (5) The lot size requirement shall be determined by excluding streets; and
- (6) Compliance with all other applicable state and local rules and laws is achieved.

Statutory Authority G.S. 130A-315; 130A-320; P.L. 93-523.

SECTION .1600 - WATER QUALITY  
STANDARDS

.1622 MICROBIOLOGICAL CONTAMINANT  
SAMPLING AND ANALYSIS

(j) Two or more water systems that are adjacent and are owned or operated by the same supplier of water and that together serve 15 or more service connections or 25 or more persons and which were in operation on or before July 31, 1987 shall conform to the following sampling schedule rather than the schedule set forth in Paragraphs (b), (c), and (e) of this Rule. A water supplier shall submit samples monthly from each section of the water system supplied from a separate source.

Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141.

.1624 ORGANIC CHEMICALS OTHER THAN  
THIM: SAMPLING AND ANALYSIS

(d) Analyses made to determine compliance with Rule .1615(1) and (2) of this Section shall be made in accordance with methods adopted by the United States Environmental Protection Agency and codified as 40 C.F.R. 141.24 (e) and (f), which are hereby adopted by reference as amended through March 12, 1982, in accordance with G.S. 150B-14(c). A list of these methods is available from the Public Water Supply Branch, Environmental Health Section, Division of Health Services, P.O. Box 2091, Raleigh, N.C. 27602.

Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141.

.1625 INORGANIC CHEMICAL SAMPLING



AND ANALYSIS

(g) Two or more water systems that are adjacent and are owned or operated by the same supplier of water and that together serve 15 or more service connections or 25 or more persons and which were in operation on or before July 31, 1987 shall conform to the following sampling schedule rather than the schedule set forth in Paragraph (a) of this Rule. A water supplier shall submit samples every three years from each section of the water system supplied from a separate source.

Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141.

.1627 MONITORING FREQUENCY FOR RADIOACTIVITY

(c) Two or more water systems that are adjacent and are owned or operated by the same supplier of water and that together serve 15 or more service connections or 25 or more persons and which were in operation on or before July 31, 1987 shall conform to the following sampling schedule rather than the schedule set forth in Paragraphs (a) and (b) of this Rule. A water supplier shall take samples for gross alpha particle activity, radium-226 and radium-228, and for man-made radioactivity from the water system when the secretary determines that the system is in an area subject to radiological contamination. When the sampling is required, a water supplier shall submit samples every four years from each section of the water system supplied from a separate source.

Authority G.S. 130A-315; P.L. 93-523; 40 C.F.R. 141.

SECTION .2600 - LOCAL PLAN APPROVAL

.2604 NOTICE

(c) Upon completion of the construction or alteration of the distribution system, the applicant shall submit a statement to the local approval program signed by a registered professional engineer and affixed with his professional engineering seal, stating that construction was completed in accordance with approved plans and specifications and revised only in accordance with 10 NCAC 10D .0906. The statement shall be based upon adequate observations during and upon completion of construction by the engineer or a representative of the engineer's office supervised by the engineer. The local approval program shall provide a copy of the statement to the department.

Statutory Authority G.S. 130A-317; 1985 S.L., c. 697, s. 3.

SUBCHAPTER 10F - HAZARDOUS WASTE MANAGEMENT

.0030 STANDARDS FOR HAZARDOUS WASTE GENERATORS - PART 262

(h) The appendix contained in 40 CFR 262 has been adopted by reference in accordance with G.S. 150B-14(c); however, Items D, E, H, and I on the form in the appendices contained in 40 CFR are required to be completed on the North Carolina Hazardous Waste Manifest form.

Statutory Authority G.S. 130A-294(c).

.0032 STANDARDS FOR OWNERS/ OPERATORS OF IIWMFS - PART 264

(a) Any person who treats, stores, or disposes of hazardous waste shall do so in compliance with the standards set forth in this Rule, and only after having received a permit from the department as required by 10 NCAC 10F .0034(b)(1), or having received interim status according to 10 NCAC 10F .0034 ~~(b)(3).~~ (g)(1).

(d) The provisions for "Preparedness and Prevention" contained in ~~45 Fed. Reg. 33,224 (1980) to be codified in 40 CFR 264.30 to 264.37 (Subpart C) have been adopted by reference as amended by 46 Fed. Reg. 2,849 (1981) and 48 Fed. Reg. 14,294 (1983).~~ in accordance with G.S. 150B-14(c).

(e) "Contingency Plan and Emergency Procedures" contained in ~~45 Fed. Reg. 33,224 to 33,226 (1980) to be codified in 40 CFR 264.50 to 264.56 (Subpart D) have been adopted by reference in accordance with G.S. 150B-14(c).~~

(g) The provisions for "Ground-water Protection" contained in ~~47 Fed. Reg. 32,350 to 32,356 (1982) to be codified in 40 CFR 264.90 to 264.101 (Subpart F) have been adopted by reference as amended by 48 Fed. Reg. 14,294 (1983); and 50 Fed. Reg. 28,746 and 28,747 (1985).~~ in accordance with G.S. 150B-14(c).

For the purpose of this adoption by reference, the words "the effective date" contained in 40 CFR 264.90(a) shall be deleted and replaced with the phrase "January 26, 1983".

(h) The provisions for "Closure and Post-Closure" contained in ~~46 Fed. Reg. 2,849 to 2,851, and 7,678 (1981) to be codified in 40 CFR 264.110 to 264.120 (Subpart G) have been adopted by reference in accordance with G.S. 150B-14(c), as amended by 47 Fed. Reg. 32,356, 32,357 (1982) as amended by 48 Fed. Reg. 14,294 (1983); and 51 Fed. Reg. 16,444 to 16,447, 25,472 (1986);~~ except that 40 CFR 264.120(b) is rewritten

ten as follows: "If at any time the owner or operator or any subsequent owner of the land upon which a hazardous waste facility was located removes the waste and waste residues, the liner, if any, and all contaminated underlying and surrounding soil, he may add a notation on the deed to the facility property or other instrument normally examined during title search, indicating the removal of the waste."

(i) "Financial Requirements" contained in ~~46 Fed. Reg. 2,854 to 2,866 and 2,678 (1981) to be codified in 40 CFR 264.140 to 264.151 (Subpart II) have been adopted by reference as amended by 47 Fed. Reg. 15,047 to 15,064 and 16,554 to 16,558; and 32,357 (1982) and 48 Fed. Reg. 30,115 (1983); and 54 Fed. Reg. 16,412 to 16,451, 25,172 (1986), in accordance with G.S. 150B-14(c), except that 40 CFR 264.143(a)(3), (a)(4), (a)(5), (a)(6), 40 CFR 264.145(a)(3), (a)(4), (a)(5), (a)(6), 40 CFR 264.147(a), 40 CFR 264.147(b), 40 CFR 264.151(a)(1), Section 15, and 40 CFR 264.151(g), and 40 CFR 264.151(a),(b),(c),(d),(e),(f),(h),(i), and (j) are not adopted by reference.~~

(j) The provisions for "Use and Management of Containers" contained in ~~46 Fed. Reg. 2,856 and 2,867 (1981) to be codified in 40 CFR 264.170 to 264.178 (Subpart I) have been adopted by reference as amended by 46 Fed. Reg. 55,112 (1981); and 50 Fed. Reg. 2003 (1985), in accordance with G.S. 150B-14(c).~~

(k) The provision for "Tanks" contained in ~~46 Fed. Reg. 2,867, 2,868, 2,895, and 35,249 (1981) to be codified in 40 CFR 264.190 to 264.200 (Subpart J) have been adopted by reference as amended by 46 Fed. Reg. 35,249 (1981); 50 Fed. Reg. 2004 (1985); and 54 Fed. Reg. 25,172 to 25,178; and 29,130 (1986), in accordance with G.S. 150B-14(c).~~

(l) The following are requirements for Surface Impoundments:

(1) The provisions for "Surface Impoundments" contained in ~~46 Fed. Reg. 2,868 to 2,870 (1981) to be codified in 40 CFR 264.220 to 264.231 (Subpart K) have been adopted by reference as amended 47 Fed. Reg. 32,357 to 32,359 (1982); and 50 Fed. Reg. 2004, 28,717, and 28,718 (1985), in accordance with G.S. 150B-14(c).~~

(2) The following are additional permitting standards related to surface impoundments:

(A) A new surface impoundment shall meet the following minimum requirements for a liner system:

(i) The liner system shall consist of at least two liners;

(ii) Artificial liners shall be equal to or greater than 30 mils in thickness;

(iii) Clayey liners shall be equal to or greater than five feet in thickness and have a maximum permeability of  $1.0 \times 10^{-7}$  cm/sec;

(iv) Clayey liner soils shall have the same characteristics as described in ~~(e)(1)(B)(ii), (iii), (iv), (vi) and (vii) (g)(4)(i), (iii), (iv), (vi), and (vii) of this Rule;~~

(v) A leachate collection system shall be constructed between the upper liner and the bottom liner;

(vi) A leachate detection system shall be constructed below the bottom liner.

(B) A hazardous waste surface impoundment shall be constructed in such a manner to prevent landsliding, slippage or slumping.

(m) The provisions for "Waste Piles" contained in ~~46 Fed. Reg. 2,870 to 2,872 and 2,896 (1981) to be codified in 40 CFR 264.250 to 264.259 (Subpart L) have been adopted by reference as amended by 46 Fed. Reg. 55,112 (1981); 47 Fed. Reg. 32,359 to 32,361 (1982); and 50 Fed. Reg. 2004 and 28,718 (1985), in accordance with G.S. 150B-14(c).~~

(n) The provisions for "Land Treatment" contained in ~~47 Fed. Reg. 32,364 to 32,365 (1982) to be codified in 40 CFR 264.270 to 264.283 (Subpart M) have been adopted by reference as amended by 48 Fed. Reg. 14,294 and 14,295 (1983); and 50 Fed. Reg. 2004 (1985), in accordance with G.S. 150B-14(c).~~

(o) The following are requirements for Landfills and Long-Term Storage Facilities:

(1) The provisions for "Landfills" contained in ~~47 Fed. Reg. 32,365 to 32,367 (1982) to be codified in 40 CFR 264.300 to 264.339 (Subpart N) have been adopted by reference as amended by 50 Fed. Reg. 2004, 2005, 18,374, 28,718, and 28,719 (1985), in accordance with G.S. 150B-14(c). These requirements apply to landfills and long-term storage facilities.~~

(2) The following are additional requirements for hazardous waste landfills and long-term storage facilities:

(A) No hazardous waste landfill or long-term storage facility shall be established until at least one comprehensive hazardous waste treatment facility is fully operational in North Carolina.

(B) Hazardous waste shall be treated prior to placement in a North Carolina hazardous waste landfill or long-term storage facility. The extent of waste treatment

required shall be based on the degree of hazard associated with each waste. Waste shall be classified as low, moderate, or extremely hazardous; classification being based on the following factors:

- (i) The toxicity, quantity, and concentration of constituents within the waste;
  - (ii) The reported and potential toxic effects of the waste constituents;
  - (iii) The persistence, mobility, and potential for bioaccumulation of the waste constituents; and
  - (iv) Any other relevant factors.
- (C) Hazardous waste that cannot be reduced, stabilized or destroyed to the extent which renders it sufficiently low in toxicity to present no significant health or safety hazard in the event of leakage, shall be stored in long-term, retrievable storage until such methods are found. Hazardous waste in long-term retrievable storage shall be detoxified as soon as the commission determines, based on the preponderance of the evidence, that the technology is available at a reasonable cost.
- (D) Residue or ashes of hazardous waste which has been treated so that the toxicity is low enough to present no significant health or safety hazard in the event of leakage from the facility shall be placed in long-term storage or a hazardous waste landfill.
- (E) No hazardous waste or polychlorinated biphenyl landfill facility shall be permitted within 25 miles of any other hazardous waste or polychlorinated biphenyl landfill facility, long-term storage facility or comprehensive hazardous waste treatment facility.
- (F) The following shall not be placed in a hazardous waste landfill, long-term storage, or long-term retrievable storage facility: ignitables as defined in the Federal Act, polyhalogenated biphenyls of 50 ppm or greater concentration and free liquids whether or not containerized.
- (G) A hazardous waste landfill or long-term storage facility shall meet the following minimum liner requirements:
- (i) Leachate collection and removal systems above an artificial liner;
  - (ii) An artificial liner of not less than 30 mil in thickness;
  - (iii) A five-foot clayey liner below the artificial liner which has a maximum permeability of  $1.0 \times 10^{-7}$  cm/sec; and

(iv) A leachate detection system immediately below a clay liner.

(H) A long-term storage facility shall meet groundwater protection, closure and post-closure, and financial requirements as specified in 40 CFR Subparts (F), (G) and (H) as adopted in 10 NCAC 10F .0032.

(3) If technically and commercially feasible alternatives to landfilling, such as recycling, reduction, and detoxification, are available for a hazardous waste, that waste shall not be disposed of in a landfill cell. However, this requirement shall apply only if utilization of such alternatives will provide equal or greater protection of the public health than disposing of the same hazardous waste without utilization of such alternatives.

(p) The provisions for "Incinerators" contained in ~~46 Fed. Reg. 7,678 to 7,680, 7,689 and 7,690 (1981) to be codified in~~ 40 CFR 264.340 to 264.351 (Subpart O) have been adopted by reference ~~as amended by 47 Fed. Reg. 27,532 and 27,533 (1982); 48 Fed. Reg. 14,295 and 30,115 (1983); and 50 Fed. Reg. 665, 666, 2005, and 49,203 (1985).~~ in accordance with G.S. 150B-14(c).

(r) The provisions for "Miscellaneous Units" contained in 40 CFR 264.600 to 264.603 (Subpart X) have been adopted by reference in accordance with G.S. 150B-14(c).

*Statutory Authority G.S. 130A-294(c).*

#### .0033 INTERIM STATUS STANDARDS FOR HWMFS - PART 265

(c) The provisions for "Preparedness and Prevention" contained in ~~45 Fed. Reg. 33,236 and 33,237 (1980) to be codified in~~ 40 CFR 265.30 to 265.37 (Subpart C) have been adopted by reference in accordance with G.S. 150B-14(c).

(d) "Contingency Plan and Emergency Procedures" contained in ~~45 Fed. Reg. 33,237 to 33,238 (1980) to be codified in~~ 40 CFR 265.50 to 265.56 (Subpart D) have been adopted by reference in accordance with G.S. 150B-14(c).

(e) The provisions for "Manifest System, Recordkeeping, and Reporting" contained in ~~45 Fed. Reg. 33,238 and 33,239 (1980) to be codified in~~ 40 CFR 265.70 to 265.77 (Subpart E) have been adopted by reference ~~as amended by 45 Fed. Reg. 86,970, 86,974 (1980); 46 Fed. Reg. 7,680 (1981); 48 Fed. Reg. 3,982 (1983); 50 Fed. Reg. 48,374 (1985); and 51 Fed. Reg. 25,479, 40,637, and 40,638 (1986).~~ in accordance with G.S. 150B-14(c).

(f) The provisions for "Ground Water Monitoring" contained in 45 Fed. Reg. 33,230 to 33,242 (1980) to be codified in 40 CFR 265.90 to 265.94 (Subpart F) have been adopted by reference as amended by 47 Fed. Reg. 1,255 (1982); and 48 Fed. Reg. 3,982 (1983). in accordance with G.S. 150B-14(c).

(g) The provisions for "Closure and Post-Closure" contained in 45 Fed. Reg. 33,242 and 33,243 (1980) to be codified in 40 CFR 265.110 to 265.120 (Subpart G) have been adopted by reference as amended by 46 Fed. Reg. 2,875, 2,876, and 2,877, and 2,896 (1981); and 51 Fed. Reg. 16,151 to 16,155, and 25,179 (1986); in accordance with G.S. 150B-14(c), except that 40 CFR 265.120 (b) is rewritten as follows: "If at any time the owner or operator or any subsequent owner of the land upon which a hazardous waste facility was located removes the waste and waste residues, the liner, if any, and all contaminated underlying and surrounding soil, he may add a notation on the deed to the facility property or other instrument normally examined during title search, indicating the removal of the waste."

(h) "Financial Requirements" contained in 45 Fed. Reg. 33,243 and 33,244 (1980) to be codified in 40 CFR 265.140 to 265.151 (Subpart H) have been adopted by reference as amended by 46 Fed. Reg. 2,877 to 2,888 (1981); 47 Fed. Reg. 15,064 to 15,074 and 16,558 to 16,561 (1982); 48 Fed. Reg. 11,295 and 30,115 (1983); and 51 Fed. Reg. 16,155 to 16,158, 25,179, (1986); in accordance with G.S. 150B-14(c), except that 40 CFR 265.143(a)(3), (a)(4), (a)(5), (a)(6), 40 CFR 265.145(a)(3), (a)(4), (a)(5), (a)(6), 40 CFR 265.147(a), and 40 CFR 265.147(b), are not adopted by reference.

(i) The provisions for "Use and Management of Containers" contained in 45 Fed. Reg. 33,244 (1980) to be codified in 40 CFR 265.170 to 265.177 (Subpart I) have been adopted by reference as amended by 45 Fed. Reg. 78,529 (1980); in accordance with G.S. 150B-14(c), except that 40 CFR 265.174 is not adopted by reference.

(1) The following shall be substituted for the provisions of 40 CFR 265.174 which were not adopted by reference:

"265.174 Inspections.

The owner or operator must inspect areas where containers are stored at least weekly for leaks and for deterioration caused by corrosion or other factors. A log of inspections must be kept for at least three years from the date of the inspection. [Comment: See Section 265.171 for remedial action required if deterioration or leaks are detected.]"

(k) The provisions for "Surface Impoundments" contained in 45 Fed. Reg. 33,245 and 33,246 (1980) to be codified in 40 CFR 265.220 to 265.230 (Subpart K) have been adopted by reference as amended in 50 Fed. Reg. 16,048 and 28,749 (1985); and 52 Fed. Reg. 8,708 and 8,709 (1987). in accordance with G.S. 150B-14(c).

(l) The provisions for "Waste Piles" contained in 45 Fed. Reg. 33,246 and 33,247 (1980) to be codified in 40 CFR 265.250 to 265.258 (Subpart L) have been adopted by reference as amended by 46 Fed. Reg. 2,896 and 2,897 (1981); 47 Fed. Reg. 32,367 and 32,368 (1982); and 50 Fed. Reg. 28,750 (1985). in accordance with G.S. 150B-14(c).

(m) The provisions for "Land Treatment" contained in 45 Fed. Reg. 33,247 to 33,249 (1980) to be codified in 40 CFR 265.270 to 265.282 (Subpart M) have been adopted by reference as amended by 47 Fed. Reg. 32,368 (1982); 48 Fed. Reg. 11,295 (1983) and 50 Fed. Reg. 16,048 (1985). in accordance with G.S. 150B-14(c).

(n) The provisions for "Landfills" contained in 45 Fed. Reg. 33,249 and 33,250 (1980) to be codified in 40 CFR 265.300 to 265.316 (Subpart N) have been adopted by reference as amended by 46 Fed. Reg. 13,194, 13,195, 33,507, 56,596 (1981); 47 Fed. Reg. 8,306, 12,318, 32,368, 32,369 (1982) and 50 Fed. Reg. 16,048, 18,374, 18,375, and 28,750 (1985). in accordance with G.S. 150B-14(c).

(o) The provisions for "Incinerators" contained in 45 Fed. Reg. 33,250 (1980) to be codified in 40 CFR 265.340 to 265.352 (Subpart O) have been adopted by reference as amended by 46 Fed. Reg. 7,678 to 7,680 (1981); 47 Fed. Reg. 27,533 (1982); and 50 Fed. Reg. 666, 2005, 49,203, and 49,204 (1985). in accordance with G.S. 150B-14(c).

(p) The provisions for "Thermal Treatment" contained in 45 Fed. Reg. 33,250 and 33,251 (1980) to be codified in 40 CFR 265.370 to 265.383 (Subpart P) have been adopted by reference as amended by 50 Fed. Reg. 666, 2005, and 2006 (1985). in accordance with G.S. 150B-14(c).

(q) The provisions for "Chemical, Physical, and Biological Treatment" contained in 45 Fed. Reg. 33,251 and 33,252 (1980) to be codified in 40 CFR 265.400 to 265.406 (Subpart Q) have been adopted by reference in accordance with G.S. 150B-14(c).

(r) The provisions for "Underground Injection" contained in 45 Fed. Reg. 33,252 and 33,253 (1980) to be codified in 40 CFR 265.430 (Subpart R) have been adopted by reference as

~~amended by 48 Fed. Reg. 30,115 (1983), in accordance with G.S. 150B-14(c).~~

(s) ~~Appendices I through V contained in 45 Fed. Reg. 23,252 to 23,258 (1980) 40 CFR 265 have been adopted by reference in accordance with G.S. 150B-14(c).~~

Statutory Authority G.S. 130A-294(c).

\*\*\*\*\*

*Notice is hereby given in accordance with G.S. 150B-12 that the Human Resources/Medical Assistance intends to amend regulation cited as 10 NCAC 26H .0303(h).*

*The proposed effective date of this action is November 1, 1988.*

*The public hearing will be conducted at 1:30 p.m. on August 14, 1988 at North Carolina Division of Medical Assistance, 1985 Umstead Drive, Room 201, Raleigh, N. C. 27603.*

*Comment Procedures: Written comments concerning this amendment must be submitted by 8/14/88 to: Director, Division of Medical Assistance, 1985 Umstead Drive, Raleigh, N. C. 27603. Oral comments may be presented at the hearing. In addition, a fiscal impact statement on this rule amendment is available upon written request from the same address.*

#### CHAPTER 26 - MEDICAL SERVICES

##### SUBCHAPTER 26H - REIMBURSEMENT PLANS

##### SECTION .0300 - ICF-MR PROSPECTIVE RATE PLAN

##### .0303 METHODS AND STANDARDS FOR DETERMINING RATES

(h) Start-up costs are cost incurred by an ICF-MR provider while preparing to provide services. It includes the cost incurred by providers to provide services at the level necessary to obtain certification less any revenue or grants related to start-up. The North Carolina Medicaid Program will reimburse these start-up costs up to a maximum equal to the facility's rate times its beds times ~~90~~ 120 days. This reimbursement will be made in addition to the facility's per diem rate. The amount shall be payable upon receipt of a special start-up cost report. This report should be filed within 15 months of the certification date. No advance of start-up funds shall

be made prior to the desk audit of the start-up cost report.

Authority G.S. 108A-25(b); 108A-54; 108A-55; S.L. 1985, c. 479, s. 86; 42 CFR Part 447 Subpart C.

#### TITLE 12 - DEPARTMENT OF JUSTICE

*Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Private Protective Services Board intends to amend regulation cited as 12 NCAC 7D .0204.*

*The proposed effective date of this action is November 1, 1988.*

*The public hearing will be conducted at 12:00 p.m. on August 19, 1988 at McKinnon Center, Western Boulevard at Gorman Street, Raleigh, N. C.*

*Comment Procedures: File written comments with James F. Kirk, Administrator, P.O. Box 29500, Raleigh, N. C. 27626 no later than Friday, August 12, 1988.*

#### CHAPTER 7 - PRIVATE PROTECTIVE SERVICES

##### SUBCHAPTER 7D - PRIVATE PROTECTION SERVICES BOARD

##### SECTION .0200 - LICENSES: TRAINEE PERMITS

##### .0204 DETERMINATION OF EXPERIENCE

(a) Experience requirements shall be determined in the following manner:

- (1) one year experience = 1,000 hours;
- (2) two years experience = 2,000 hours;
- (3) three years experience = 3,000 hours.

(b) Applicants must be prepared to make available upon request written documentation and/or verification of experience.

(c) The board ~~shall not~~ may, for good cause, consider any experience claimed by the applicant if gained while not in possession of a valid license, registration or trainee permit while such license, registration, or trainee permit was required by existing or previously existing laws of the United States, any state or any political subdivision of a state.

Statutory Authority G.S. 74C-5; 74C-8(d)(3).

\*\*\*\*\*

*Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Criminal Justice Education and Training Standards Commission intends to adopt, amend and repeal regulations cited as 12 NCAC 9A .0103, .0204 - .0206; 9B .0101 - .0102, .0203, .0205 - .0206, .0209 - .0214, .0218 - .0219, .0222, .0224, .0226 - .0228, .0231 - .0233, .0304 - .0305, .0310, .0401, .0403 - .0407, .0414 - .0415, .0603; 9C .0303 - .0304, .0306 - .0307, .0310, .0501 - .0505, .0602 - .0605; 9E .0101 - .0107.*

*The proposed effective date of this action is July 1, 1989.*

*The public hearing will be conducted at 10:00 a.m. on September 8, 1988 at the Hearing Room of the Alcoholic Beverage Control Commission Building, 3322 Old Garner Road, Raleigh, North Carolina.*

*Comment Procedures: Any person interested in these rules may present oral or written comments relevant to the proposed action at the Public Rule-Making Hearing. Written statements not presented at the Hearing should be directed to the undersigned. The proposed rules are available for public inspection and copies may be obtained at the following address:*

*Criminal Justice Standards Division  
North Carolina Department of Justice  
1 West Morgan Street  
Room 15, Court of Appeals Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602.*

## CHAPTER 9 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

### SUBCHAPTER 9A - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

#### SECTION .0100 - COMMISSION ORGANIZATION AND PROCEDURES

##### .0103 DEFINITIONS

The following definitions apply throughout this Chapter, except as modified in 12 NCAC 9A .0107 for the purpose of the commission's rule-making and administrative hearing procedures:

(14) "In-Service Training" means any and all training prescribed in Rule 9E .0102 which must be satisfactorily completed by all certified law enforcement officers during each full calendar year of certification.

(15) ~~(44)~~ "Lateral Transfer" means the employment of a criminal justice officer, at any rank, by a criminal justice agency, based upon the officer's special qualifications or experience, without following the usual selection process established by the agency for basic officer positions.

(16) ~~(45)~~ "Law Enforcement Code of Ethics" means that code adopted by the commission on September 19, 1973, which reads:

As a law enforcement officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all men to liberty, equality, and justice.

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession...law enforcement.

(17) ~~(46)~~ "Law Enforcement Officer" means an appointee of a criminal justice agency or of the State or of any political subdivision of the State who, by virtue of his office, is empowered to make arrests for violations of the laws of this State. Specifically excluded from this title are sheriffs and their sworn appointees with arrest authority who are governed by the provisions of Chapter 17E of the General Statutes.

(18) ~~(17)~~ "Law Enforcement Training Points" means points earned toward the Law Enforcement Officers' Professional Certificate Program by successful completion of commission-approved law enforcement training courses. Twenty classroom hours of commission-approved law enforcement training equals one law enforcement training point.

(19) ~~(18)~~ "Local Confinement Personnel" means any officer, supervisor or administrator of a local confinement facility in North Carolina as defined in G.S. 153A-217; any officer, supervisor or administrator of a county confinement facility in North Carolina as defined in G.S. 153A-218; or, any officer, supervisor or administrator of a district confinement facility in North Carolina as defined in G.S. 153A-219.

(20) ~~(19)~~ "Misdemeanor" means those criminal offenses not classified by the North Carolina General Statutes, the United States Code, the common law, or the courts as felonies. Misdemeanor offenses are classified by the commission as follows:

(a) "Class A Misdemeanor" means an act committed or omitted in violation of any common law, duly enacted ordinance, criminal statute, or criminal traffic code of this state, or any other jurisdiction, either civil or military, for which the maximum punishment allowable for the designated offense under the laws, statutes, or ordinances of North Carolina or its political subdivisions includes imprisonment for a term of not more than six months. Specifically excluded from this grouping of "class A misdemeanor" criminal offenses are motor vehicle or traffic offenses designated as misdemeanors under Chapter 20 (Motor Vehicles) of the General Statutes of North Carolina, similar laws of other jurisdictions, or duly enacted ordinances of an authorized governmental entity with the exception of the offense of impaired driving (G.S. 20-138.1) which is expressly included herein as a class A misdemeanor, if the defendant was sentenced under punishment level three [G.S. 20-179(i)], level four [G.S. 20-179(j)], or level five [G.S. 20-179(k)].

(b) "Class B Misdemeanor" means an act committed or omitted in violation of any common law, criminal statute, or criminal traffic code of this state, or any other jurisdiction, either civil or military, for which the maximum punishment allowable for the designated offense under the laws and statutes of North Carolina in-

cludes imprisonment for a term of more than six months but not more than two years. Specifically excluded from this grouping of "class B misdemeanor" criminal offenses are motor vehicles or traffic offenses designated as being misdemeanors under Chapter 20 (Motor Vehicles) of the General Statutes of North Carolina or similar laws of other jurisdictions with the following exceptions. Class B misdemeanor does expressly include, either first or subsequent offenses of G.S. 20-138(a) or (b), G.S. 20-139 (persons under influence of drugs), and G.S. 20-166 (duty to stop in event of accident). This definition further includes a violation of G.S. 20-138.1 (impaired driving) if the defendant was sentenced under punishment level one [G.S. 20-179(g)] or punishment level two [G.S. 20-179(h)] for the offense.

(21) ~~(20)~~ "Parole Case Analyst" means an employee of the North Carolina Department of Correction who works under the supervision of the North Carolina Parole Commission, whose duties include analyzing and processing cases under consideration for parole, preparing and presenting parole recommendations, analyzing and processing executive clemency matters and interviewing inmates.

(22) ~~(21)~~ "Pilot Courses" means those courses developed consistent with the curriculum development policy adopted by the commission on May 30, 1986. This policy shall be administered by the Education and Training Committee of the commission consistent with Rule 9C .0404.

~~(22) "Pre Service Training" means any and all training stipulated in Rule 9B .0205(b) which must be satisfactorily completed by all applicants prior to obtaining probationary certification as a law enforcement officer.~~

*Statutory Authority G.S. 17C-2; 17C-6; 17C-10; 153A-217.*

## SECTION .0200 - ENFORCEMENT OF RULES

### .0204 SUSPENSION: REVOCATION: OR DENIAL OF CERTIFICATION

(a) The commission shall revoke the certification of a criminal justice officer when the commission finds that the officer has committed or been convicted of:

- (1) a felony; or
- (2) a crime for which the authorized punishment included imprisonment for more than two years.



(b) The commission may suspend, revoke, or deny the certification of a criminal justice officer when the commission finds that the applicant for certification or the certified officer:

- (1) has not enrolled in and satisfactorily completed the required basic training course in its entirety ~~or in formally authorized separate parts~~, within prescribed time periods relevant or applicable to a specified position or job title;
- (2) fails to meet any of the minimum employment standards required by 12 NCAC 9B .0100 for the category of the officer's certification;
- (3) has committed or been convicted of:
  - (A) a crime or unlawful act defined in 12 NCAC 9A .0103 as a Class B misdemeanor; or
  - (B) four or more crimes or unlawful acts defined in 12 NCAC 9A .0103 as a Class A misdemeanor, each of which occurred after the date of initial certification;
- (4) has been discharged by a criminal justice agency for commission or conviction of:
  - (A) a motor vehicle offense requiring the revocation of the officer's driver's license; or
  - (B) any other offense involving moral turpitude;
- (5) has been discharged by a criminal justice agency because the officer lacks the mental or physical capabilities to properly fulfill the responsibilities of a criminal justice officer;
- (6) has knowingly made a material misrepresentation of any information required for certification or accreditation;
- (7) has knowingly and designedly by any means of false pretense, deception, defraudation, misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or certification from the commission;
- (8) has failed to make either of the notifications as required by 12 NCAC 9B .0101(7); ~~or~~
- (9) has been removed from office by decree of the Superior Court in accord with the provisions of G.S. 128-16;
- (10) ~~fails to satisfactorily complete the minimum in-service training requirements as prescribed in 12 NCAC 9E;~~
- (11) has refused to submit to the drug screen specified in 12 NCAC 9B .0101(5);
- (12) has produced a positive result on the drug screen specified in and administered according to 12 NCAC 9B .0101(5), where

the positive result cannot be explained to the commission's satisfaction by a valid prescription and current medical advice;  
or

- (13) has produced a positive result on a drug screen reported to the commission as specified in 12 NCAC 9C .0310, where the positive result cannot be explained to the commission's satisfaction by a valid prescription and current medical advice.

*Statutory Authority G.S. 17C-6; 17C-10.*

**.0205 PERIOD OF SUSPENSION:  
REVOCATION: OR DENIAL**

When the commission suspends, revokes, or denies the certification of a criminal justice officer, the period of the sanction shall be:

- (1) permanent where the cause of the sanction is:
  - (a) commission or conviction of a felony; or
  - (b) commission or conviction of a crime for which authorized punishment included imprisonment for more than two years; or
  - (c) the second revocation of an officer's certification for either of the two causes requiring a five-year period of revocation; or
  - (d) refusal to submit to the drug screen specified in 12 NCAC 9B .0101(5); or
  - (e) production of a positive result on the drug screen specified in and administered according to 12 NCAC 9B .0101(5), where the positive result cannot be explained to the commission's satisfaction by a valid prescription and current medical advice;  
or
  - (f) production of a positive result on a drug screen reported to the commission under 12 NCAC 9C .0310, where the positive result cannot be explained to the commission's satisfaction by a valid prescription and current medical advice.
- (2) not less than five years where the cause of sanction is:
  - (a) commission or conviction of a crime other than those listed in Item (1) of this Rule; however, the commission may either reduce or suspend the period of sanction under this Item or substitute a period of probation in lieu of revocation following an administrative hearing; or
  - (b) material misrepresentation of any information required for certification or accreditation;
  - (c) failure to make either of the notifications as required by 12 NCAC 9B .0101(7); or



- (d) removal from office under the provisions of G.S. 128-16.
- (3) for an indefinite period, but continuing so long as the stated deficiency, infraction, or impairment continues to exist, where the cause of sanction is:
  - (a) failure to meet or satisfy relevant basic training requirements; or
  - (b) failure to meet or maintain the minimum standards of employment; or
  - (c) discharge from a criminal justice agency for impairment of physical or mental capabilities; or
  - (d) failure to meet or satisfy the in-service training requirements as prescribed in 12 NCAC 9E.

*Statutory Authority G.S. 17C-6; 17C-10.*

**.0206 SUMMARY SUSPENSIONS**

(a) The commission, by and through the Standards Committee, may summarily suspend the certification of a criminal justice officer or instructor or the accreditation of a criminal justice school or course before the commencement of proceedings for suspension or revocation of the certification or accreditation when:

- (1) the person has committed or been convicted of a violation of the criminal code which would require a permanent suspension, revocation, or denial of certification; ~~or~~
- (2) in the opinion of the Standards Committee, the public health, safety, or welfare requires this emergency action of summary suspension; or
- (3) the certified officer fails to satisfactorily complete the minimum in-service training requirements as prescribed in 12 NCAC 9E.

*Statutory Authority G.S. 17C-6; 17C-10; 150B-3.*

**SUBCHAPTER 9B - STANDARDS FOR  
CRIMINAL JUSTICE EMPLOYMENT:  
EDUCATION: AND TRAINING**

**SECTION .0100 - MINIMUM STANDARDS FOR  
CRIMINAL JUSTICE EMPLOYMENT**

**.0101 MINIMUM STANDARDS FOR  
CRIMINAL JUSTICE OFFICERS**

Every criminal justice officer employed by an agency in North Carolina shall:

- (1) be a citizen of the United States;
- (2) be at least 20 years of age;
- (3) be of good moral character as determined by a thorough background investigation;

- (4) have been fingerprinted and a search made of local, state, and national files to disclose any criminal record;
- (5) have been examined and certified by a licensed physician or surgeon to meet physical requirements necessary to properly fulfill the officer's particular responsibilities and shall have produced a negative result on a drug screen administered according to the following specifications:
  - (a) the drug screen shall be a urine test consisting of an initial test and a confirmatory test on an initial positive result; and
  - (b) the urine specimen shall be collected as part of the medical examination; and
  - (c) a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen; and
  - (d) the drugs whose use shall be tested for shall include at least cannabis, cocaine, phencyclidine (PCP), opiates and amphetamines or their metabolites; and
  - (e) the test threshold values are no lower than these:
    - (i) Cannabis - 100 ng/ml - initial and GCMS;
    - (ii) Opiates - 300 ng/ml - initial and GCMS;
    - (iii) Cocaine - 300 ng/ml - initial, 150 ng/ml - GCMS;
    - (iv) PCP - 25 ng/ml - initial and GCMS;
    - (v) Amphetamines - 1000 ng/ml - initial and GCMS; and
  - (f) the laboratory conducting the test must be certified for federal workplace drug testing programs.

A positive result which can be explained to the commission's satisfaction by a valid prescription and current medical advice shall have the effect of a negative result.

**Note:** Although not presently required by these Rules, the commission recommends that every candidate for a position as a criminal justice officer be examined by a licensed psychiatrist or clinical psychologist prior to employment, or be administered a psychological evaluation test battery to determine his mental and emotional suitability to perform the duties of an officer.

*Statutory Authority G.S. 17C-6; 17C-10.*

**.0102 BACKGROUND INVESTIGATION**

(d) The agency may use the method of documenting the results of the background investigation it deems most appropriate to its needs. However, the commission's Summary of Background Investigation Form should be used as a

guide of minimum information collected and recorded by the investigator.

(c) ~~(d)~~ Upon written request by the Director of the Standards Division, the employing agency shall provide the commission with a copy of any background investigation retained by the agency.

*Statutory Authority G.S. 17C-6.*

## SECTION .0200 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE SCHOOLS AND CRIMINAL JUSTICE TRAINING PROGRAMS OR COURSES OF INSTRUCTION

### .0203 ADMISSION OF TRAINEES

(d) The school shall not admit any individual as a trainee in a presentation of the "Basic Recruit Training -- Law Enforcement" course unless as a prerequisite the individual has:

- (1) provided to the certified school director a Medical Examination Report Form in compliance with 12 NCAC 9B .0104, properly completed by a physician licensed to practice medicine in North Carolina; and
- (2) had a drug screen in accordance with 12 NCAC 9B .0101(5); and
- (3) produced a negative result on the drug screen, or produced a positive result which can be explained to the commission's satisfaction by a valid prescription and current medical advice.

*Statutory Authority G. S. 17C-6; 17C-10.*

### .0205 BASIC TRAINING -- LAW ENFORCEMENT OFFICERS

(a) The basic training course for law enforcement officers consists of instruction designed to provide the trainee with the skills and knowledge to perform those tasks essential to function in law enforcement. The course entitled "Basic Recruit Training -- Law Enforcement" is composed of two separable parts. The first being designated as Pre-Service Training, as specified under Paragraph (b) of this Rule, and the second being designated as Probationary Training, as specified under Paragraph (c) of this Rule.

(b) The Pre-Service Training course applicable to all law enforcement officers shall consist of a minimum of 413 hours of instruction and shall include the following identified topic areas and minimum instructional hours for each area:

- (1) Course Orientation - 4 Hours
- (2) Laws of Arrest, Search and Seizure - 16 Hours
- (3) Mechanics of Arrest:  
Arrest Procedures - 8 Hours  
Vehicle Stops - 6 Hours

Custody Procedures - 2 Hours

Processing, Fingerprinting, and

Photographing Arrestee - 4 Hours

(4) Defensive Tactics - 16 Hours

(5) Firearms - 40 Hours

(6) Law Enforcement Driver Training - 16 Hours

(7) Testing - 4 Hours

(b) The course entitled "Basic Recruit Training -- Law Enforcement" shall consist of a minimum of 410 hours of instruction and shall include the following identified topic areas and minimum instructional hours for each area:

(1) Course Orientation - 2 Hours

(2) Constitutional Law - 4 Hours

(3) Laws of Arrest, Search and Seizure - 16 Hours

(4) Mechanics of Arrest; Arrest Procedures - 8 Hours

(5) Law Enforcement Communications and Information Systems - 4 Hours

(6) Elements of Criminal Law - 24 Hours

(7) Defensive Tactics - 16 Hours

(8) Juvenile Laws and Procedures - 8 Hours

(9) Emergency Medical Services - 24 Hours

(10) Firearms - 40 Hours

(11) Patrol Techniques - 16 Hours

(12) Crime Prevention Techniques - 4 Hours

(13) Field Notetaking and Report Writing - 12 Hours

(14) Mechanics of Arrest; Vehicle Stops - 6 Hours

(15) Mechanics of Arrest; Custody Procedures - 2 Hours

(16) Mechanics of Arrest; Processing Arrestee - 4 Hours

(17) Crisis Management - 10 Hours

(18) Special Populations - 12 Hours

(19) Civil Disorders - 8 Hours

(20) Criminal Investigation - 28 Hours

(21) Interviews: Field and In-Custody - 8 Hours

(22) Controlled Substances - 6 Hours

(23) ABC Laws and Procedures - 4 Hours

(24) Electrical and Hazardous Material Emergencies - 6 Hours

(25) Motor Vehicle Laws - 20 Hours

(26) Techniques of Traffic Law Enforcement - 6 Hours

(27) Traffic Accident Investigation - 20 Hours

(28) Law Enforcement Driver Training - 16 Hours

(29) Preparing for Court and Testifying in Court - 12 Hours

(30) Dealing with Victims and the Public - 8 Hours

(31) Testing - 13 Hours

(32) Physical Fitness - 43 Hours

(c) Unless otherwise prescribed and made applicable by subsequent rule of this Subchapter, the remaining portion of the basic training course, designated as Probationary Training, shall consist of a minimum of 256 hours of instruction and shall include the following identified topic areas and minimum instructional hours for each area:

- (1) Course Orientation - 4 Hours
- (2) Constitutional Law - 4 Hours
- (3) Law Enforcement Communications and Information Systems - 4 Hours
- (4) Elements of Criminal Law - 24 Hours
- (5) Juvenile Laws and Procedures - 8 Hours
- (6) Emergency Medical Services - 24 Hours
- (7) Patrol Techniques - 16 Hours
- (8) Crime Prevention Techniques - 4 Hours
- (9) Field Notetaking and Report Writing - 12 Hours
- (10) Crisis Management - 10 Hours
- (11) Deviant Behavior - 10 Hours
- (12) Civil Disorders - 12 Hours
- (13) Criminal Investigation - 28 Hours
- (14) Interviews: Field and In-Custody - 8 Hours
- (15) Controlled Substances - 6 Hours
- (16) ABC Laws and Procedures - 4 Hours
- (17) Electrical and Hazardous Materials Emergencies - 6 Hours
- (18) Motor Vehicle Laws - 20 Hours
- (19) Techniques of Traffic Law Enforcement - 6 Hours
- (20) Traffic Accident Investigation - 20 Hours
- (21) Preparing for Court and Testifying in Court - 12 Hours
- (22) Dealing with Victims and the Public - 8 Hours
- (23) Testing and Examination - 9 Hours

(d) (c) The "Basic Law Enforcement Training Manual" as published by the North Carolina Justice Academy is hereby adopted by reference, and shall automatically include any later amendments and editions of the adopted matter as authorized by G.S. 150B-14(c), to apply as basic curriculum for this basic training course for law enforcement officers as administered by the commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1 West Morgan Street  
Court of Appeals Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Drawer 99  
Salemberg, North Carolina 28385

(e) (d) The "Basic Law Enforcement Training Course Management Guide" as published by the North Carolina Justice Academy is hereby adopted by reference, and shall automatically include any later amendments and editions of the adopted matter as authorized by G.S. 150B-14(c), to be used by certified school directors in planning, implementing and delivering basic training courses. Each certified school director shall be issued a copy of the guide at the time of certification at no cost to the accredited school.

*Statutory Authority G. S. 17C-6; 17C-10.*

#### **.0206 BASIC TRAINING: CORRECTIONAL OFFICERS**

(c) The "Basic Correction Officer Training Manual" as published by the Department of Correction is hereby adopted by reference, and shall automatically include any later amendments and editions of the adopted matter as authorized by G.S. 150B-14(c), to apply as the basic curriculum for delivery of correctional officer basic training courses.

*Statutory Authority G. S. 17C-6; 17C-10.*

#### **.0209 CRIMINAL JUSTICE INSTRUCTOR TRAINING**

(a) The instructor training course required for general instructor certification shall consist of a minimum of ~~70~~ 80 hours of instruction presented during a continuous period of not more than two weeks.

(b) Each instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice instructor.

(c) Each instructor training course shall include as a minimum the following identified topic areas and minimum instructional hours for each area:

- (1) Orientation - Lesson Plan Preparation - 2 Hours
- (2) Curriculum Development - 4 Hours
- (3) Professional Resources - 4 Hours
- (4) Format and Objectives - 6 Hours
- (5) Principals and Styles of Adult Learning - 4 Hours
- (6) Classroom Environment - 4 Hours
- (7) Student Classroom Study Skills - 4 Hours
- (8) Methods and Strategies of Instruction - 4 Hours

- (9) Audio-Visual Equipment - 8 Hours
- (10) Questioning Techniques - 2 Hours
- (11) Legal Liability - 2 Hours
- (12) Demonstration Methods and Practical Exercise - 2 Hours
- (13) Evaluation Process - 3 Hours
- (14) Effective Speaking - 2 Hours
- (15) Student Performance - 33 Hours
- (16) Student 10 Minute Talk, Video Critique - 6 Hours
- (17) Examination - 2 Hours
- (1) Orientation and Pretest - 2½ Hours
- (2) Curriculum Development: ISD Model - 1½ Hours
- (3) Civil Liability for Law Enforcement Trainers - 2 Hours
- (4) Interpersonal Communication in Instruction - 4 Hours
- (5) Lesson Plan Preparation: Professional Resources - 1½ Hours
- (6) Lesson Plan Preparation: Format and Objectives - 6 Hours
- (7) Adult Learning - 3½ Hours
- (8) Adult Learning: The Learning Environment - 2½ Hours
- (9) Principles of Instruction: Demonstration Methods and Practical Exercise - 6 Hours
- (10) Methods and Strategies of Instruction - 4 Hours
- (11) The Evaluation Process - 4 Hours
- (12) Principles of Instruction: Audio-Visual Aids - 8 Hours
- (13) Student 10-Minute Talk and Video Critique - 6 Hours
- (14) Student Performance:
  - First Thirty-Minute Presentation - 7½ Hours
  - Second Thirty-Minute Presentation - 7½ Hours
  - Final Fifty-Minute Presentation - 12 Hours
- (15) Examination - 1½ Hours

**Note:** The 33 hour block of instruction for Student Performance includes 47 hours that are conducted with divided groups. If this block is conducted with more than six students in a single group the total number of course hours would exceed 80 hours.

(d) The "Basic Instructor Training Manual" as published by the North Carolina Justice Academy is hereby adopted by reference, and shall automatically include any later amendments and editions of the adopted matter as authorized by G.S. 150B-14(c), to apply as the basic curriculum for delivery of basic instructor training courses. Copies of this publication may be inspected at the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1 West Morgan Street  
Court of Appeals Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be purchased at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Drawer 99  
Salemberg, North Carolina 28385

*Statutory Authority G.S. 17C-6.*

#### .0210 RADAR INSTRUCTOR TRAINING COURSE

(e) The "Radar Operator Training Course" as published by the North Carolina Justice Academy is hereby adopted by reference, and shall automatically include any later amendments and editions of the adopted matter as authorized by G.S. 150B-14(c), to apply as basic curriculum for the radar instructor training course for radar instructors as administered by the commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1 West Morgan Street  
Court of Appeals Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost at the address in this Rule.

*Statutory Authority G.S. 17C-6.*

#### .0211 CRIMINAL JUSTICE TD/SMI INSTRUCTOR TRAINING COURSE

(d) The "Time-Distance Operator Course" as published by the North Carolina Justice Academy is hereby adopted by reference, and shall automatically include any later amendments and editions of the adopted matter as authorized by G.S. 150B-14(c), to apply as basic curriculum for the criminal justice time-distance speed measurement instrument instructor training course for time-distance speed measurement instructors as administered by the commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice

1 West Morgan Street  
Court of Appeals Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost at the address in this Rule.

*Statutory Authority G.S. 17C-6.*

**.0212 CERTIFICATION TRAINING FOR  
RADAR OPERATORS**

(d) The "Radar Operator Training Course" as published by the North Carolina Justice Academy is hereby adopted by reference, and shall automatically include any later amendments and editions of the adopted matter as authorized by G.S. 150B-14(c), to apply as basic curriculum for the radar operator training course for radar operators as administered by the commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1 West Morgan Street  
Court of Appeals Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost at the address in this Rule.

*Statutory Authority G.S. 17C-6.*

**.0213 CERTIFICATION TRAINING FOR  
RADAR TD/SMI OPERATORS**

(d) The "Time-Distance Operator Course" as published by the North Carolina Justice Academy is hereby adopted by reference, and shall automatically include any later amendments and editions of the adopted matter as authorized by G.S. 150B-14(c), to apply as basic curriculum for the radar and time-distance speed measurement instrument operator training course for radar and time-distance speed measurement instrument operators as administered by the commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1 West Morgan Street  
Court of Appeals Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost at the address in this Rule.

*Statutory Authority G.S. 17C-6.*

**.0214 CERTIFICATION TRAINING FOR  
TD/SMI OPERATORS**

(d) The "Time-Distance Operator Course" as published by the North Carolina Justice Academy is hereby adopted by reference, and shall automatically include any later amendments and editions of the adopted matter as authorized by G.S. 150B-14(c), to apply as basic curriculum for the time-distance speed measurement operator training course for time-distance speed measurement operators as administered by the commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1 West Morgan Street  
Court of Appeals Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost at the address in this Rule.

*Statutory Authority G.S. 17C-6.*

**.0218 RE-CERTIFICATION TRAINING FOR  
RADAR INSTRUCTORS**

(a) Each retraining course for certified radar instructors shall consist of a minimum of ~~30~~ 20 hours of instruction and testing designed to provide the instructor with the skills and knowledge to continue to proficiently perform the function of a criminal justice instructor. This course shall be presented within a period not to exceed one week.

(c) Each radar instructor retraining course shall include but not be limited to the following topic areas and corresponding instructional hours and incorporate the corresponding minimum trainee performance objectives within the course curriculum:

- (1) Course Orientation: ~~2 Hours~~ 1 Hour
  - (A) registration and description of course;
  - (B) review of the performance requirements for successful completion of the radar instructor retraining course;
  - (C) description of the objectives of the radar instructor retraining course.
- (2) Speed Offenses and Speed Enforcement: ~~2 Hours~~ 1 Hour
  - (A) review of the association between speed offenses and motor vehicle accidents;

- (B) review of speed regulations, including origin, development of and scope of these regulations;
- (C) review of safety benefits of effective speed enforcement.
- (3) Basic Principles of Radar Speed Measurement: ~~3 Hours~~ 1½ Hours
  - (A) review of the basic operating principles of stationary and moving radar;
  - (B) review of the Doppler Principle as it relates to police radar;
  - (C) review of factors that can affect radar accuracy.
- (4) Legal and Operational Considerations: ~~3 Hours~~ 1½ Hours
  - (A) review of case law affecting the use of radar for speed measurement and enforcement;
  - (B) review of operator testing and calibrating procedures;
  - (C) review of required operating procedures of radar instruments.
- (6) ~~Moot Court: 2 Hours~~
  - ~~(A) review preparation of complete and effective direct testimony for radar cases;~~
  - ~~(B) review proper and effective cross examination responses.~~
- (7) (6) Motor-Skill Performance Testing: 8 Hours
  - (A) demonstration of the ability to properly setup, test, calibrate and operate the radar instruments for which the instructor seeks re-certification in accordance with criteria specified on standardized performance evaluation forms;
  - (B) demonstration of the ability to estimate vehicular speed in accordance with criteria specified on standardized performance evaluation forms.
- (8) (7) North Carolina Administrative Code and Motor-Skill Forms: 2 Hours
  - (A) review 12 NCAC 9 as to the requirements and rules relating to radar, time-distance operator training, retraining, and certification;
  - (B) review all SMI forms used in administering radar, time-distance training and certification courses.
- (9) (8) Written Test: 2 Hours

Total: ~~30~~20 Hours

Statutory Authority G.S. 17C-6.

#### .0219 RE-CERTIFICATION TRAINING FOR TD/SMI INSTRUCTORS

- (a) Each retraining course for certified time-distance speed measurement instrument (TD/SMI) instructors shall consist of a minimum of ~~40~~ 8 hours of instruction and testing in addition to the requirements set forth in 12 NCAC 9B .0218(a). This additional ~~40~~ 8 hours shall provide the instructor with the skills and knowledge to continue to proficiently perform the function of a criminal justice instructor. This course shall be presented within a period not to exceed one week.
- (b) Each applicant for the time-distance instructor retraining course shall:
  - (1) Meet the minimum entry requirements of 12 NCAC 9B .0218(b) and in addition thereto shall have successfully completed the retraining courses of 12 NCAC 9B .0218(c).
  - (2) Have been certified as a time-distance instructor within the three years preceding the completion date of the retraining course.
- (c) Each time-distance instructor retraining course shall include all topic areas specified in 12 NCAC 9B .0218(c). The additional ~~40~~ 8 instructional hours in the time-distance instructor retraining course shall include but not be limited to the following topic areas and corresponding instructional hours and incorporate the corresponding minimum trainee performance objectives within the course curriculum:
  - (1) ~~Overview and Introduction to Time-Distance Speed Measurement Instruments: 1 Hour~~
  - ~~(A) description of the objectives of the TD/SMI retraining course;~~
  - ~~(B) review of the performance requirements for successful completion of the TD/SMI instructor retraining course.~~
  - (2) (1) Basic Principles of Time-Distance Speed Measurement Instruments: 1 Hour
    - (A) review of the basic principles of the TD/SMI;
    - (B) review of the basic procedures used to calibrate TD/SMI;
    - (C) review of the basic operating procedures for the TD/SMI.
  - (3) (2) Legal and Operational Considerations of Time-Distance Speed Measurement Instruments: 1 Hour
    - (A) review of case law affecting TD/SMI;
    - (B) review of required operating procedures for TD/SMI;
    - (C) review of factors which may affect the selection of speed measurement sites.

- (4) (3) Classroom Familiarization with Specific Time-Distance Speed Measurement Instruments: ½ Hour

- (A) review of required testing and calibration procedures for specific TD/SMI;  
(B) review all functions and controls of specific TD/SMI.

- (5) ~~Moot Court:~~ 1 Hour

- (A) ~~review preparation of complete and effective direct testimony for TD/SMI cases;~~  
(B) ~~review proper and effective cross examination responses.~~

- (6) (4) Motor-Skill Performance Testing: 4½ Hours

demonstration of the ability to properly setup, test, calibrate, and operate the time-distance instrument for which the instructor seeks re-certification in accordance with criteria specified on standardized performance evaluation forms.

- (7) (5) Written Test: 1 Hour

TOTAL ~~40~~ 8 Hours

*Statutory Authority G.S. 17C-6.*

**.0222 RE-CERTIFICATION COURSE FOR TD/SMI OPERATORS**

(d) Each time-distance operator re-certification course shall include the following topic areas and corresponding testing hours and incorporate the corresponding minimum trainee performance objectives within the course curriculum:

- (1) Course Orientation: ½ Hour
  - (A) registration and description of course;
  - (B) review of the performance requirements for successful completion of the TD/SMI operator re-certification course.
- (2) Legal and Operational Considerations: 1½ Hours
  - (A) review of operator testing and calibration procedures;
  - (B) review of ~~accepted~~ required operating ~~required~~ procedures of time-distance instruments.
- (3) Motor-Skill Performance Testing: 4 Hours
  - (A) demonstration of the ability to properly setup, test, calibrate, and operate the time-distance instruments for which the operator seeks re-certification in accordance with criteria specified on standardized performance evaluation forms;
  - (B) demonstration of the ability to estimate vehicular speed in accordance with criteria specified on standardized performance evaluation forms.
- (4) Written Test 2 Hours

TOTAL 8 Hours

*Statutory Authority G.S. 17C-6.*

**.0224 BASIC TRAINING - DISTRICT/COUNTY CONFINEMENT FACILITY**

The basic training course for "Jailers" as prescribed in 12 NCAC 10 as ~~amended November 4, 1985~~, by the North Carolina Sheriff's Education and Training Standards Commission is hereby adopted by reference, and shall automatically include any later amendments and editions of the adopted matter as authorized by G.S. 150B-14(c), to be the minimum basic training course required for district and county confinement facility personnel. Notice of successful course completion issued by the Justice Officers' Standards Division shall be sufficient to satisfy this requirement.

*Statutory Authority G.S. 17C-2; 17C-6; 17C-10.*

**.0226 SPECIALIZED INSTRUCTOR TRAINING - FIREARMS**

(b) Each specialized firearms instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice firearms instructor in a "Basic Recruit Training -- Law Enforcement" course or a "Law Enforcement Officer's In-Service Firearms Training and Qualification Program".

(c) Each applicant for specialized firearms instructor training shall:

- (1) have completed the criminal justice general instructor training course; and,
- (2) present a written endorsement by a certified school director indicating the student will be utilized to instruct firearms in "Basic Recruit Training -- Law Enforcement" courses; or,
- (3) present a written endorsement by a department head or certified school director indicating the student will be utilized to instruct firearms in a "Law Enforcement Officer's In-Service Firearms Training and Qualification Program."

(e) The "Specialized Firearms Instructor Training Manual" as published by the North Carolina Justice Academy is hereby adopted by reference, and shall automatically include any later amendments and editions of the adopted matter as authorized by G.S. 150B-14(c), to apply as the basic curriculum for delivery of specialized firearms instructor training courses. Copies of this publication may be inspected at the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1 West Morgan Street  
Court of Appeals Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

*Statutory Authority G.S. 17C-6.*

**.0227 SPECIALIZED INSTRUCTOR TRAINING  
- DRIVING**

(e) The "Specialized Driver Instructor Training Manual" as published by the North Carolina Justice Academy is hereby adopted by reference, and shall automatically include any later amendments and editions of the adopted matter as authorized by G.S. 150B-14(c), to apply as the basic curriculum for delivery of specialized driver instructor training courses. Copies of this publication may be inspected at the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1 West Morgan Street  
Court of Appeals Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

*Statutory Authority G.S. 17C-6.*

**.0228 BASIC TRAINING: WILDLIFE  
ENFORCEMENT OFFICERS**

(c) The "Wildlife Basic Training Manual" as published by the North Carolina Wildlife Resources Commission is hereby adopted by reference, and shall automatically include any later amendments and editions of the adopted matter as authorized by G.S. 150B-14(c), to apply as the basic curriculum for delivery of wildlife enforcement officer basic training courses.

*Statutory Authority G.S. 17C-6; 17C-10.*

**.0231 BASIC TRAINING-PROBATION/  
PAROLE INTENSIVE OFFICER**

In addition to the requirements for Basic Training for Probation/Parole Officers and Intake Officers contained in Rule .0208 of this Section, every Probation/Parole Intensive Officer shall complete a supplemental training course contained in Rule .0223 of this Section, and the ~~468~~ 154-hour Probation/Parole advanced training program.

*Statutory Authority G.S. 17C-6.*

**.0232 SPECIALIZED INSTRUCTOR TRAINING**

**- DEFENSIVE TACTICS**

(e) The "Specialized Defensive Tactics Instructor Training Manual" published by the North Carolina Justice Academy is hereby adopted by reference, and shall automatically include any later amendments and editions of the adopted matter as authorized by G.S. 150B-14(c), to apply as the basic curriculum for delivery of specialized defensive tactics instructor training courses. Copies of this publication may be inspected at the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1 West Morgan Street  
Court of Appeals Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

*Statutory Authority G.S. 17C-6.*

**.0233 SPECIALIZED INSTRUCTOR TRAINING  
- PHYSICAL FITNESS**

(a) The instructor training course required for specialized physical fitness instructor certification shall consist of a minimum of 40 hours of instruction presented during a continuous period of not more than one week.

(b) Each specialized physical fitness instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice physical fitness instructor in a "Basic Recruit Training -- Law Enforcement" Course.

(c) Each applicant for specialized physical fitness training shall:

- (1) have completed the criminal justice general instructor training course; and
- (2) present a written endorsement by a certified school director indicating the student will be utilized to instruct physical fitness in "Basic Recruit Training -- Law Enforcement" courses; and
- (3) present a letter from a physician stating fitness to participate in the course.

(d) Each specialized physical fitness instructor training course shall include as a minimum the following identified topic areas and minimum instructional hours for each area:

- (1) Orientation - 1 Hour
- (2) Lesson Plan Review - 2 Hours
- (3) Physical Fitness Assessments, Exercise Programs and Instructional Methods - 26 Hours
- (4) Injury Care and Prevention - 3 Hours
- (5) Nutrition - 3 Hours
- (6) Civil Liabilities for Trainers - 3 Hours
- (7) Examination - 2 Hours



(d) The "Physical Fitness Instructor Training Manual" as published by the North Carolina Justice Academy is hereby adopted by reference, and shall automatically include any later amendments and editions of the adopted matter as authorized by G.S. 150B-14(c), to apply as the basic curriculum for delivery of specialized physical fitness instructor training courses. Copies of this publication may be inspected at the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
I West Morgan Street  
Court of Appeals Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

(e) Commission-accredited schools that are accredited to offer the "Specialized Instructor Training -- Physical Fitness" course are: The North Carolina Justice Academy.

*Statutory Authority G.S. 17C-6.*

#### SECTION .0300 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE INSTRUCTORS

##### .0304 SPECIFIC INSTRUCTOR CERTIFICATION

(a) The commission may issue a Specific Instructor Certification to an applicant who has developed specific motor-skills and abilities by virtue of special training and demonstrated experience in one or more of the following topical areas:

- (1) Defensive Tactics
- (2) Emergency Medical Services
- (3) Firearms
- (4) Law Enforcement Driver Training
- (5) ~~Physical Activities~~ Physical Fitness
- (6) Firearms (DOC)
- (7) Unarmed Self-Defense (DOC/DYS)
- (8) Medical Emergencies (DYS)

(b) To qualify for Specific Instructor Certification, with the exception of the Emergency Medical Services and the Physical Fitness topical area as outlined in Rule .0304(c) and (d) of this Section, an applicant, as a minimum, must meet the following requirements:

- (1) hold General Instructor Certification, either probationary status or full general instructor status, as specified in Rule .0303 of this Section; and
- (2) successfully complete the pertinent commission-approved specific instructor training course; ~~or~~ and
- (3) obtain the recommendation of a commission-recognized school director.

(c) To qualify for Specific Instructor Certification in the Emergency Medical Services topical area, an applicant is not required to meet the standards for issuance of General Instructor Certification, but as a minimum, must qualify through one of the following two options:

(1) The first option is:

(A) ~~(4)~~ hold current CPR instructor certification through either the American Red Cross or the American Heart Association; and

(B) ~~(2)~~ hold current basic Emergency Medical Technician certification; and

(C) ~~(3)~~ have successfully completed the Department of Transportation's 40 hour EMT Instructor Course or equivalent within the last three years or hold a current North Carolina teaching certificate.

~~or~~

(2) The second option is:

(A) ~~(4)~~ hold General Instructor Certification, either probationary status or full general instructor status, as specified in Rule .0303 of this Section; and

(B) ~~(5)~~ hold current CPR instructor certification through either the American Red Cross or the American Heart Association; and

(C) ~~(6)~~ hold current basic EMT certification.

(d) To qualify for Specific Instructor Certification in the Physical Fitness topical area, an applicant may become certified through one of the following two methods:

(1) The first method is:

(A) hold General Instructor Certification, either probationary status or full general instructor status, as specified in Rule .0303 of this Section; and

(B) successfully complete the pertinent commission-approved specific instructor training course; and

(C) obtain the recommendation of a commission-recognized school director.

(2) The second method is:

(A) successfully complete the pertinent commission-approved specific instructor training course; and

(B) obtain the recommendation of a commission-recognized school director; and

(C) in addition to the requirements of both (2), (A) and (B) of this Rule, the applicant must meet one of the following qualifications:

(i) hold a current and valid North Carolina Teachers Certificate and hold a minimum of a baccalaureate degree in physical education and be actively

teaching in physical education topics;  
or

(ii) be presently instructing physical education topics in a community college, college or university and hold a minimum of a baccalaureate degree in physical education.

(c) Any existing commission-issued "Specific Instructor Certification - Physical Fitness" issued prior to July 1, 1989 is automatically extended with an expiration date of June 30, 1990. Any General Instructor having successfully completed the Specialized Physical Fitness Instructor Course and not having made application, must apply prior to July 1, 1990 in order for such course to be recognized for certification.

(d) (f) To qualify for Specific Instructor Certification in the State Youth Services Medical Emergencies topical area, an applicant is not required to meet the standards for issuance of General Instructor Certification, but as a minimum, must qualify in the following manner:

- (1) have successfully completed a commission-accredited basic instructor training course or an equivalent instructor training course as determined by the commission within the 24 month period preceding application; and
- (2) hold current instructor certification in CPR and First Aid by fulfillment of the American Red Cross Instructor requirements.

*Statutory Authority G.S. 17C-6.*

#### **.0305 TERMS AND CONDITIONS OF SPECIFIC INSTRUCTOR CERTIFICATION**

(a) An applicant meeting the requirements for certification as a specific instructor shall, for the first 12 months of certification, be in a probationary status. The Specific Instructor Certification, Probationary Status, shall automatically expire 12 months from the date of issuance.

(b) The probationary instructor will be eligible for full specific instructor status at the end of the probationary period if the instructor, through application, submits to the commission:

- (1) a favorable recommendation from a school director accompanied by certification on a commission-approved Instructor Evaluation Form that the instructor taught at least four hours in each of the topics for which Specific Instructor Certification, Probationary Status, was granted. Such instruction must have occurred in a commission-accredited course during the probationary period. The results of the

student evaluation must be considered by the school director when determining the recommendation; or

- (2) a favorable written evaluation by a commission or staff member, based on an on-site classroom evaluation of the probationary instructor in a commission-accredited course. Such evaluation will be certified on a commission-approved Instructor Evaluation Form completed for each of the topics where the probationary instructor taught a minimum of four hours and for which Specific Instructor Certification was granted; or
- (3) a favorable recommendation from a school director accompanied by certification on a commission-approved instructor Evaluation Form that the instructor taught at least four hours during the probationary period in a law enforcement officers' in-service firearms training and qualification program. Such instruction must have occurred in a program that meets the specifications outlined in Rules 9E .0105 and 9E .0106 or 12 NCAC 10B .2000; or
- (4) ~~(3)~~ in the case of the Department of Correction's Specialized Firearms Instructors and Specialized Unarmed Self-Defense Instructors, a favorable written evaluation by a commission or staff member, or a staff member or designee of the Office of Staff Development and Training of the Department of Correction, based on an on-site classroom evaluation of the probationary instructor in a commission-accredited course or a commission-approved DOC in-service firearms or unarmed self-defense course. Such evaluation will be certified on a commission-approved Instructor Evaluation Form completed for each of the topics where the probationary instructor taught a minimum of four hours and for which Specific Instructor Certification was granted; or
- (5) ~~(4)~~ in the case of the Division of Youth Services' Specialized Unarmed Self-Defense Instructors and State Youth Services Medical Emergencies Instructors, a favorable written evaluation by a commission or staff member, or a Staff Development Specialist of the Division of Youth Services, based on an on-site classroom evaluation of the probationary instructor in a commission-accredited course. Such evaluation will be certified on a commission-approved Instructor Evaluation Form completed for the topic where the probationary instructor taught a mini-

num of four hours and for which Specific Instructor Certification was granted.

(c) The term of certification as a full specific instructor is two years from the date the commission issues the certification. The certification may subsequently be renewed by the commission for two-year periods. The application for renewal shall contain, in addition to the requirements listed in Rule .0304 of this Section, documentary evidence that the applicant has remained active in the instructional process during the previous two-year period. Such documentary evidence shall include, at a minimum, the following:

- (1) proof that the applicant has, within the two-year period preceding application for renewal, instructed at least four hours in each of the topics for which Specific Instructor Certification was granted and such instruction must be in a commission-accredited training course. Acceptable documentary evidence shall include official commission records submitted by school directors and written certification from a school director; and either
- (2) a favorable written recommendation from a school director accompanied by certification that the instructor successfully taught at least four hours in each of the topics for which Specific Instructor Certification was granted. Such teaching must have occurred in a commission-accredited training course during the two-year period of Specific Instructor Certification; or
- (3) a favorable evaluation by a commission or staff member, based on an on-site classroom evaluation of a presentation by the instructor in a commission-accredited training course, during the two-year period of Specific Instructor Certification. In addition, instructors evaluated by a commission or staff member must also teach at least four hours in each of the topics for which Specific Instructor Certification was granted; or
- (4) a favorable recommendation from a school director accompanied by certification on a commission-approved Instructor Evaluation Form that the instructor successfully taught at least four hours in a law enforcement officers' in-service firearms training and qualification program during the two-year period of Specific Instructor Certification. Such instruction must have occurred in a program that meets the specifications outlined in Rules 9E .0105 and 9E .0106 or 12 NCAC 10B .2000; or

(5) (4) in the case of the Department of Correction's Specialized Firearms Instructors and Specialized Unarmed Self-Defense Instructors, a favorable evaluation by a commission or staff member, or a staff member or designee of the Office of Staff Development and Training of the Department of Correction, based on an on-site classroom evaluation of the instructor in a commission-accredited training course or a commission-approved DOC in-service firearms or unarmed self-defense course. The instructor must have taught a minimum of four hours in each of the topics for which full Specific Instructor Certification was granted for the two-year period, or

(6) (5) in the case of the Division of Youth Services' Specialized Unarmed Self-Defense Instructors and State Youth Services Medical Emergencies Instructors, a favorable written evaluation by a commission or staff member, or a Staff Development Specialist of the Division of Youth Services, based on an on-site classroom evaluation of the instructor in a commission-accredited training course. The instructor must have taught a minimum of four hours in the topic for which full Specific Instructor Certification was granted for the two-year period.

(d) All instructors shall remain active during their period of certification. If an instructor does not teach at least four hours in each of the topic areas for which certification is granted, the certification shall not be renewed for those topics in which the instructor failed to successfully teach. Any specific instructor training courses previously accepted by the commission for purposes of certification shall no longer be recognized if the instructor does not successfully teach at least four hours in each of the specific topics during the two-year period of which certification was granted. Upon application for re-certification, such applicants shall be required to meet the minimum requirements of Rule .0304 of this Section.

(e) The use of guest participants in a delivery of the "Basic Recruit Training--Law Enforcement Course" is permissible. However, such guest participants are subject to the direct on-site supervision of a commission-certified instructor and must be authorized by the school director. A guest participant shall only be used to complement the primary certified instructor of the block of instruction and shall in no way replace the primary instructor.

Statutory Authority G.S. 17C-6.

**.0310 TERMS AND CONDITIONS - SMI INSTRUCTORS**

(a) The term of a radar instructor or a radar and time-distance speed measurement instrument instructor is two years from the date the commission issues the certificate, unless sooner terminated by the commission. The certificate may be renewed for subsequent three year periods. The SMI instructor desiring renewal shall:

- (1) Hold general instructor certification as required in 12 NCAC 9B .0303.
  - (2) Have been active in the SMI instructional process during the previous ~~two year~~ certification period.
  - (3) Successfully complete a commission-approved SMI instructor re-certification course as required in 12 NCAC 9B .0218 or .0219.
- (b) All SMI instructors seeking re-certification shall successfully complete the re-certification course within 12 months from expiration of the initial certification period or re-certification period, but not sooner than six months prior to the expiration of the previous certification. If re-certification training is not obtained within the 12-month period, successful completion of the appropriate instructor training program as required in 12 NCAC 9B .0308 will be required to obtain instructor certification. This prescribed 12-month period does not extend the instructor certification period.

Statutory Authority G.S. 17C-6.

**SECTION .0400 - MINIMUM STANDARDS FOR COMPLETION OF TRAINING**

**.0401 TIME REQUIREMENT FOR COMPLETION OF TRAINING**

(a) Each criminal justice officer, with the exception of law enforcement officers, holding temporary or probationary certification shall satisfactorily complete a commission-accredited basic training course which includes training in the skills and knowledge necessary to perform the duties of his office. The officer shall complete such course within one year from the date of his original appointment as determined by the date of the temporary or probationary certification.

(b) Each law enforcement officer, except alcohol law enforcement agents, ~~holding temporary or probationary certification shall in addition to having satisfactorily completed the pre-service basic training course as prescribed in 12 NCAC 9B .0205(b), have satisfactorily completed in its entirety the accredited basic training course as prescribed in 12 NCAC 9B .0205 (c).~~ (b) prior

to obtaining probationary certification. The officer shall complete such course within one year from the date of his original appointment as determined by the date of the temporary or probationary certification.

(c) Each alcohol law enforcement agent holding temporary or probationary certification shall, in addition to having satisfactorily completed the pre-service basic training course as prescribed in 12 NCAC 9B .0205(b) or having satisfactorily completed the first eleven weeks of the Basic Training: Alcohol Law Enforcement Agent's course stipulated in 12 NCAC 9B .0217(b), satisfactorily complete in its entirety the accredited basic training course as prescribed in 12 NCAC 9B .0217(b). The agent shall complete such course within one year from the date of his original appointment as determined by the date of the temporary or probationary certification.

(d) If a law enforcement officer completed the basic training course prior to being employed as a law enforcement officer, the officer shall be sworn within one year of the completion of training for that training to be recognized under these Rules.

(e) If local confinement personnel complete basic training prior to being employed by a facility, such personnel shall be appointed within one year of the completion of training for that training to be recognized under these Rules.

Statutory Authority G. S. 17C-2; 17C-6; 17C-10.

**.0403 EVALUATION FOR TRAINING WAIVER**

(a) The division staff shall evaluate each law enforcement officer's training and experience to determine if equivalent training has been satisfactorily completed as specified in Rule .0402(a). Applicants for certification with prior law enforcement experience shall have been employed in a full-time, sworn law enforcement position in order to be considered for training evaluation under this Rule. Applicants for certification with a combination of full-time and part-time experience shall be evaluated on the basis of the full-time experience only. The following criteria shall be used by division staff in evaluating a law enforcement officer's training and experience to determine eligibility for a waiver of training requirements:

- (1) Persons having completed a commission-accredited ~~pre-service~~ basic training program and not having been duly appointed as a sworn law enforcement officer within one year of completion of the program shall complete a subsequent commission-accredited ~~pre-service~~ basic training program in its entirety prior to

obtaining probationary law enforcement certification.

- (2) Persons who separated from law enforcement employment during their probationary period and who have been separated from a sworn law enforcement position for more than one year shall complete a subsequent ~~pre-service~~ basic training program in its entirety prior to obtaining another probationary certification.
- (3) Out-of-state transferees shall be evaluated to determine the amount and quality of their training and experience. Out-of-state transferees cannot have a break in service exceeding one year. At a minimum, out-of-state transferees shall have two years full-time, sworn law enforcement experience and have successfully completed a basic law enforcement training course accredited by the State from which ~~he is transferring~~. At a minimum, out-of-state transferees shall successfully complete a commission-accredited training program which includes the following enumerated topics of North Carolina law and procedure and shall successfully pass the State Comprehensive Examination in its entirety within the 12 month probationary period as prescribed in 12 NCAC 9B .0401(b).

Laws of Arrest, Search  
and Seizure - 16 Hours  
Elements of Criminal  
Law - 24 Hours  
Juvenile Laws and  
Procedures - 8 Hours  
Controlled Substances - 6 Hours  
ABC Laws and Procedures - 4 Hours  
Motor Vehicle Laws - 20 Hours  
Firearms Qualification (~~only~~)  
(Handgun and Shotgun Courses)

Total - 78 Hours

- (4) ~~Persons out of the law enforcement profession~~ Persons who have completed a minimum 369-hour basic law enforcement training program accredited by the North Carolina Criminal Justice Education and Training Standards Commission under guidelines administered beginning October 1, 1984 and have been separated from a sworn position for over one year but less than three years who have had a minimum of two years experience as a full-

time, sworn law enforcement officer in North Carolina shall successfully complete the refresher training enumerated in Item .0403(a)(3) and shall successfully pass the State Comprehensive Examination in its entirety within the 12 month probationary period as prescribed in 12 NCAC 9B .0401(b).

- (5) Persons out of the law enforcement profession for over one year but less than three years who have had less than two years experience as a full-time, sworn law enforcement officer in North Carolina shall complete a commission-accredited basic training program in its entirety and successfully pass the State Comprehensive Examination. ~~within the 12 month probationary period as prescribed in 12 NCAC 9B .0401(b).~~
- (6) Persons out of the law enforcement profession for over three years regardless of prior training or experience shall complete a commission-accredited basic training program in its entirety and shall successfully pass the State Comprehensive Examination. ~~within the 12 month probationary period as prescribed in 12 NCAC 9B .0401(b).~~
- (7) Persons having completed a commission-accredited basic training program and not having been duly appointed as a sworn law enforcement officer within one year of completion of the basic training program shall complete a subsequent commission-accredited basic training program in its entirety and successfully pass the State Comprehensive Examination. ~~within the 12 month probationary period as prescribed in 12 NCAC 9B .0401(b).~~
- (8) Persons who separated from law enforcement employment during their probationary period after having completed a commission-accredited basic training program and who have separated from a sworn law enforcement position for more than one year shall complete a subsequent commission-accredited basic training program in its entirety and successfully pass the State Comprehensive Examination. ~~within the 12 month probationary period as prescribed in 12 NCAC 9B .0401(b).~~
- (9) ~~Persons who separated from a sworn law enforcement position during their probationary period after having successfully passed the State Comprehensive Examination completed a commission-accredited basic training program and who have separated from a sworn law enforcement~~

ment position for less than one year shall serve a new 12 month probationary period, but need not complete an additional training program.

- (10) Persons who have completed a minimum 160-hour basic law enforcement training program accredited by the North Carolina Criminal Justice Training and Standards Council under guidelines administered beginning on July 1, 1973 and continuing through September 30, 1978 and who have separated from a sworn law enforcement position for over one year but less than two years shall be required to complete the following portions of a commission-accredited basic training program and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 9B .0401(b).

Juvenile Laws and Procedures - 8 Hours  
Firearms - 40 Hours  
Patrol Technique - 16 Hours  
Crisis Management - 10 Hours  
Deviant Behavior - 10 Hours  
Criminal Investigations - 28 Hours  
Electrical and Hazardous Material  
Emergencies - 6 Hours  
Law Enforcement Driver  
Training - 16 Hours  
Laws of Arrest,  
Search and Seizure - 16 Hours  
Elements of Criminal Law - 24 Hours  
Juvenile Laws and  
Procedures - 8 Hours  
Controlled Substances - 6 Hours  
ABC Laws and Procedures - 4 Hours  
Motor Vehicle Laws - 20 Hours  
Law Enforcement Driver  
Training - 16 Hours  
Firearms Qualification (Handgun  
and Shotgun Courses)

Total 94 Hours

- (11) Persons who have completed a minimum 160-hour basic law enforcement training program accredited by the North Carolina Criminal Justice Training and Standards Council under guidelines administered beginning on July 1, 1973 and continuing through September 30, 1978 and have been separated from a sworn law enforcement position for over two years shall be required to complete a current commission-accredited basic training program in its entirety regardless of training and experience and shall successfully pass the

State Comprehensive Examination. ~~within the 12 month probationary period as prescribed in 12 NCAC 9B .0401(b).~~

- (12) Persons who have completed a minimum 240-hour basic law enforcement training program accredited by the North Carolina Criminal Justice Education and Training Standards Commission under guidelines administered beginning October 1, 1978 and continuing through September 30, 1984 and have been separated from a sworn position over one year but less than three years shall be required to complete the following portions of a commission-accredited basic training program and successfully pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 9B .0401(b).

Laws of Arrest,  
Search and Seizure - 16 Hours  
Elements of Criminal Law - 24 Hours  
Juvenile Laws and  
Procedures - 8 Hours  
Deviant Behavior - 10 Hours  
Controlled Substances - 6 Hours  
ABC Laws and Procedures - 4 Hours  
Motor Vehicle Laws - 20 Hours  
Firearms Qualification(only)  
(Handgun and Shotgun Courses)

Total 78 Hours

- (13) Persons who have completed a minimum 240-hour basic law enforcement training program accredited by the North Carolina Criminal Justice Education and Training Standards Commission under guidelines administered beginning October 1, 1978 and continuing through September 30, 1984 and have been separated from a sworn position over three years shall be required to complete a current commission-accredited basic training program in its entirety regardless of prior training and experience and shall successfully pass the State Comprehensive Examination. ~~within the 12 month probationary period as prescribed in 12 NCAC 9B .0401(b).~~

- (14) Persons previously holding law enforcement certification in accordance with G.S. 17C-10(a) who have been separated from a sworn law enforcement position for over one year and who have not previously completed a minimum 160-hour basic law enforcement training program accredited by the North Carolina Criminal Justice Training and Standards Council under

guidelines administered beginning on July 1, 1973 and continuing through September 30, 1978 or have not previously completed a minimum 240-hour basic law enforcement training program accredited by the North Carolina Criminal Justice Education and Training Standards Commission under guidelines administered beginning on October 1, 1978 and continuing through September 30, 1984 shall be required to complete a commission-accredited basic training program in its entirety and shall successfully pass the State Comprehensive Examination. ~~within the 12 month probationary period as prescribed in 12 NCAC 9B .0401(b).~~

- (15) Persons who have completed training as a federal law enforcement officer and are appointed as a sworn law enforcement officer in North Carolina shall be required to complete a commission-accredited basic training program in its entirety and shall successfully pass the State Comprehensive Examination. ~~within the 12 month probationary period as prescribed in 12 NCAC 9B .0401(b) regardless of previous federal training and experience.~~
- (16) Applicants with part-time experience who have a break in service in excess of one year shall serve a new probationary period as prescribed in 12 NCAC 9B .0401(b) and shall complete a commission-accredited basic training program in its entirety and shall successfully pass the State Comprehensive Examination. ~~within the prescribed probationary period.~~
- (17) Applicants who hold or previously held certification issued by the North Carolina Sheriffs' Education and Training Standards Commission shall be subject to evaluation of their prior training and experience on an individual basis. The division staff shall determine the amount of training required of these applicants.
- (18) Alcohol law enforcement agents who separate from employment with the Division of Alcohol Law Enforcement and transfer to another law enforcement agency in a sworn capacity shall be subject to evaluation of their prior training and experience on an individual basis. The division staff shall determine the amount of training required of these applicants.
- (19) Wildlife enforcement officers who separate from employment with the Wildlife Enforcement Division and transfer to another law enforcement agency in a sworn

capacity shall be subject to evaluation of their prior training and experience on an individual basis. The division staff shall determine the amount of training required of these applicants.

*Statutory Authority G.S. 17C-2; 17C-6; 17C-10.*

**.0404 TRAINEE ATTENDANCE**

(a) Each trainee enrolled in an accredited "Basic Recruit Training -- Law Enforcement" course ~~or a Pre-Service Training course or a Probationary Training course~~ shall attend all class sessions. The trainee's department head shall be responsible for the trainee's regular attendance at criminal justice training courses in which the trainee is enrolled.

*Statutory Authority G. S. 17C-2; 17C-6; 17C-10.*

**.0405 COMPLETION OF BASIC TRAINING  
- LAW ENFORCEMENT COURSE**

(a) Each delivery of an accredited basic recruit training course is considered to be a unit. Each trainee shall attend and satisfactorily complete the full course during a scheduled delivery. The Director of the Standards Division may issue prior written authorization for a specified trainee's limited enrollment in a subsequent delivery of the same course where the trainee provides evidence that:

- (1) The trainee attended and satisfactorily completed specified class hours and topics of the "Basic Recruit Training -- Law Enforcement" course ~~or the Pre-Service Training course or the Probationary Training course~~ but through extended absence occasioned by illness, accident, emergency, or other good cause was absent for more than 10 percent of the total class hours of the course offering; or
- (2) The trainee was granted excused absences by the school director that did not exceed ten percent of the total class hours for the course offering and the school director could not schedule appropriate make-up work during the current course offering as specified in Rule 9B .0404(c), due to valid reasons; or
- (3) The trainee participated in an accredited course but had an identified deficiency in essential knowledge or skill in either one, two or three, but no more than three, of the specific topic areas incorporated in course content as prescribed under Rule 9B .0205.

~~(b) An authorization of limited enrollment in a subsequent delivery of the Probationary Train-~~



ing course may not be issued by the Director unless in addition to the evidence required by Paragraph (a) of this Rule:

- (1) The department head of the agency employing the trainee submits a written request to the Director, justifying the limited enrollment and certifying that the trainee's subsequent enrollment with commencement of active course participation shall be accomplished within the period of the trainee's probationary certification; and
  - (2) The school director of the previous course offering submits to the Director a certification of the particular topics and class hours attended and satisfactorily completed by the trainee during the original enrollment.
- (~~e~~) (b) An authorization of limited enrollment in a subsequent delivery of the "Basic Recruit Training -- Law Enforcement" course ~~or the Pre-Service Training~~ course may not be issued by the director unless in addition to the evidence required by Paragraph (a) of this Rule:
- (1) The school director of the previous course offering submits to the director a certification of the particular topics and class hours attended and satisfactorily completed by the trainee during the original enrollment; and
  - (2) The trainee makes written application to the director for authorization of limited enrollment.
- (~~d~~) (c) An authorization of limited enrollment in a subsequent course delivery permits the trainee to attend an offering of the "Basic Recruit Training -- Law Enforcement" course commencing within 120 calendar days from the last date of trainee participation in prior course delivery.
- (1) The trainee need only attend and satisfactorily complete those portions of the course which were missed or were identified by the school director as areas of trainee deficiency in the prior course participation.
  - (2) Following proper enrollment in the subsequent course offering, scheduled class attendance, and active participation with satisfactory achievement in the course, the trainee would be eligible for administration of the comprehensive written examination by the commission and possible certification of successful course completion.
- (~~e~~) (d) A trainee who is deficient in four or more subject-matter or topical areas at the conclusion

of the course delivery shall complete a subsequent program in its entirety.

Statutory Authority G. S. 17C-6; 17C-10.

#### .0406 COMPREHENSIVE WRITTEN EXAMINATION-BASIC RECRUIT TRAINING

(a) At the conclusion of a school's offering of the "Basic Recruit Training -- Law Enforcement" course in its entirety, ~~or at the conclusion of each separable part of the course; to wit, Pre-Service Training and Probationary Training~~ an authorized representative of the commission shall administer a comprehensive written examination to each trainee who has satisfactorily completed all of the required course work. A trainee cannot be administered the comprehensive written examination until such time as all of the pertinent course work is completed.

Statutory Authority G. S. 17C-6; 17C-10.

#### .0407 SATISFACTION OF MINIMUM TRAINING REQUIREMENTS

To satisfy the minimum training requirements for certification as a law enforcement officer, a trainee shall:

- (1) achieve a score of 70 percent correct answers on the commission - administered comprehensive written examination, (~~e~~) provided in Rule .0406 of this Subchapter;
- (2) demonstrate successful completion of an accredited offering of the "Basic Recruit Training -- Law Enforcement" course ~~or each of its two separate parts~~ as shown by the certification (~~e~~) of the school director; (~~e~~)
- (3) demonstrate proficiency in all motor-skill and performance subjects by achieving the minimum passing grades as specifically established in each of the topical areas in the commission - adopted "Basic Law Enforcement Training Manual"; and
- (4) obtain the recommendation (~~e~~) of the trainee's school director (~~e~~) that the trainee possesses at least the minimum degree of general attributes, knowledge, and skill to function as an inexperienced law enforcement officer.

Statutory Authority G. S. 17C-6; 17C-10.

#### .0414 COMPREHENSIVE WRITTEN EXAM -SPECIALIZED INSTRUCTOR TRAINING

(a) At the conclusion of a school's offering of the "Specialized Instructor Training - Firearms" course, the "Specialized Instructor Training - Driving" course, the "Specialized Instructor



Training - Defensive Tactics" course, the "Specialized Instructor Training - Physical Fitness" course, the "Radar Instructor Training Course," the "Criminal Justice TD/SMI Instructor Training Course," the "Re-Certification Training for Radar Instructors" course, and the "Re-Certification Training for TD/SMI Instructors" course, in its entirety, an authorized representative of the commission shall administer a comprehensive written examination to each trainee who has satisfactorily completed all of the required course work. A trainee cannot be administered the comprehensive written examination until such time as all of the pertinent course work is completed.

*Statutory Authority G.S. 17C-6; 17C-10.*

**.0415 SATISFACTION OF MINIMUM  
TRAINING - SPECIALIZED  
INSTRUCTOR**

(a) To acquire successful completion of the "Specialized Instructor Training - Firearms" course, the "Specialized Instructor Training - Driving" course, ~~and~~ the "Specialized Instructor Training - Defensive Tactics" course, and the "Specialized Instructor Training - Physical Fitness" course, the trainee shall:

- (1) satisfactorily complete all required course-work as specified in the course abstract of the "Specialized Firearms Instructor Training Manual," the "Specialized Driver Instructor Training Manual," ~~and~~ the "Specialized Defensive Tactics Instructor Training Manual," and the "Specialized Physical Fitness Instructor Training Manual" as published by the North Carolina Justice Academy; and,
- (2) demonstrate proficiency in all required motor-skill and performance subjects as specified in each specialized instructor training manual; and,
- (3) achieve a score of 75 percent correct answers on a comprehensive written examination.

*Statutory Authority G.S. 17C-6; 17C-10.*

**SECTION .0600 - CERTIFICATION OF  
POSTSECONDARY CRIMINAL JUSTICE  
EDUCATION PROGRAMS**

**.0603 LEVELS OF APPROVAL**

(b) The "Certification Guidelines Manual For Postsecondary Criminal Justice Programs" as published by the commission is hereby adopted by reference, and shall automatically include any later amendments and editions of the adopted matter as authorized by G.S. 150B-14(c), to

provide specific information about the postsecondary criminal justice education certification process as administered by the commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1 West Morgan Street  
Court of Appeals Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Standards Division.

*Statutory Authority G.S. 17C-6(b)(10).*

**SUBCHAPTER 9C - ADMINISTRATION OF  
CRIMINAL JUSTICE EDUCATION AND  
TRAINING STANDARDS**

**SECTION .0300 - CERTIFICATION OF  
CRIMINAL JUSTICE OFFICERS**

**.0303 PROBATIONARY CERTIFICATION**

(d) Before a prospective law enforcement officer, except alcohol law enforcement agents appointed by the Secretary of Crime Control and Public Safety as authorized under General Statutes 18B-500, can be issued a probationary certification, the prospective officer must have successfully completed the required ~~Pre-Service~~ basic training course stipulated in 12 NCAC 9B .0205(b).

(e) Before a prospective alcohol law enforcement agent can be issued a probationary certification, the prospective officer must have successfully completed the required ~~Pre-Service~~ basic training course stipulated in 12 NCAC 9B .0205(b) or must have successfully completed the first eleven weeks of the Basic Training: Alcohol Law Enforcement Agent's course stipulated in 12 NCAC 9B .0217(b).

*Statutory Authority G.S. 17C-6; 17C-10.*

**.0304 GENERAL CERTIFICATION**

(d) General certification is continuous from the date of issuance, so long as:

- (1) The certified officer remains continuously employed or appointed as a criminal justice officer in good standing with an agency and the certification has not been terminated for cause; or
- (2) The certified officer, having separated in good standing from a criminal justice agency, is re-appointed or re-employed as a criminal justice officer within one year,

and the certification has not been terminated for cause; and

- (3) The certified officer meets the in-service training requirements as prescribed in 12 NCAC 9E during each full calendar year of certification.

*Statutory Authority G.S. 17C-2; 17C-6; 17C-10.*

**.0306 LATERAL TRANSFER OF LAW ENFORCEMENT OFFICERS**

(b) Prior to transfer of certification, the law enforcement officer shall:

- (1) complete a Medical History Statement Form within 120 days prior to the transfer to the employing agency;
- (2) submit to examination by a physician licensed to practice medicine in North Carolina in the same manner prescribed for non-certified new applicants in 12 NCAC 9B .0104 within 120 days prior to the transfer to the employing agency;
- (3) submit results of the physical examination to the employing agency for placement in the officer's permanent personnel file; and
- (4) submit a copy of the commission's annual in-service training report form to the employing agency for placement in the officer's permanent personnel file when the duty and off duty weapon(s) remain the same as those previously used to qualify. Such in-service training compliance must have occurred within the 12 month period preceding transfer; or
- (5) satisfactorily complete the employing agency's in-service firearms training program as prescribed in Rules 9E .0105 and 9E .0106.

*Statutory Authority G.S. 17C-6; 17C-10.*

**.0307 AGENCY RETENTION OF RECORDS OF CERTIFICATION**

Each agency shall place in personnel files the official notification from the commission of either probationary or general certification for each criminal justice officer employed or appointed by the agency. Such files shall be available for ~~examination~~ examination at any reasonable time by representatives of the commission for the purpose of verifying compliance with these Rules. The personnel files shall also contain:

- (1) the officer's Personal History Statement;
- (2) the officer's Medical History Statement and Medical Examination Report;
- (3) a written summary of the Background Investigation conducted on the officer;

- (4) a written summary of the officer's Qualifications Appraisal Interview;
- (5) documentation of the officer's educational achievements;
- (6) documentation of all criminal justice training completed by the officer; ~~and~~
- (7) the results of the officer's fingerprint record check; and
- (8) for the law enforcement officer, documentation on a commission-approved form that the officer has completed the minimum in-service training as required.

*Statutory Authority G.S. 17C-2; 17C-6; 17C-10.*

**.0310 AGENCY REPORTING OF DRUG SCREENING RESULTS**

(a) Each agency shall report to the Criminal Justice Standards Division all positive results of drug screening obtained pursuant to 12 NCAC 9B .0101(5).

(b) Each agency, if it conducts a drug screen for other than an applicant physical or a lateral transfer physical, shall report to the Criminal Justice Standards Division to the extent the drug screen conducted conforms to 12 NCAC 9B .0101(5)(a), (c), (e), and (f).

*Statutory Authority G.S. 17C-6; 17C-10.*

**SECTION .0500 - MINIMUM STANDARDS FOR ACCREDITATION OF ASSOCIATE OF APPLIED SCIENCE DEGREE PROGRAMS INCORPORATING BASIC LAW ENFORCEMENT TRAINING**

**.0501 PURPOSE AND REQUIREMENTS OF ACCREDITATION (REPEALED)**

**.0502 DELIVERY OF PROGRAMS (REPEALED)**

**.0503 STUDENTS (REPEALED)**

**.0504 INSTRUCTORS (REPEALED)**

**.0505 POST-DELIVERY TRAINING COURSE REPORT (REPEALED)**

*Statutory Authority G.S. 17C-6.*

**SECTION .0600 - EQUIPMENT AND PROCEDURES**

**.0602 TESTING: ACCURACY**

All radio microwave (radar) and time-distance speed measuring instruments, tuning forks and stopwatches shall be tested for accuracy by a technician possessing at least a valid second class or general radiotelephone license from the Federal Communications Commission or a certification issued by organizations or committees endorsed by the Federal Communications Com-

mission. These tests shall be conducted ~~at least every six months~~ in accordance with the requirements prescribed in G.S. 8-50.2. Every person testing speed-measuring instruments, tuning forks, or stopwatches shall test said equipment in accordance with G.S. 8-50.2, 12 NCAC 9C .0602, .0603 and .0604. The results of the above tests shall be recorded on forms provided by the commission

*Statutory Authority G.S. 8-50.2; 17C-6.*

**.0603 TESTING: RADIO MICROWAVE (RADAR)**

(a) The minimum specific test for radio microwave (radar) shall include:

(1) Transmission Frequency Test. X-Band and K-Band instruments when operated at the standard supply voltage, the transmission frequency shall be within plus-minus .2 percent of the assigned frequency as specified in Subchapter 90.103, paragraph 22 of the F.C.C. rules and regulations.

(2) ~~Accuracy Test Using Tuning Fork~~ The technician testing each radar instrument shall test each instrument against the operator calibration and testing for accuracy procedures required by G.S. 17C-6(13) and G.S. 8-50.2(b)(4) for each approved instrument.

~~(A) All radar instruments (K-Band and X-Band) when placed in the stationary mode, shall respond to the signals from the tuning fork within plus-minus one mph of the correct value.~~

~~(B) All radar instruments (K-Band and X-Band) when placed in the moving mode, shall simultaneously respond to the signals from two vibrating tuning forks of different frequencies, and shall display the calibration speed designated for the lower frequency tuning fork as the patrol vehicle speed, and the difference between the calibration speed designated for the higher frequency tuning fork and that of the lower frequency tuning fork as the target vehicle speed, both displayed speeds shall be within plus-minus one mph of the correct values.~~

(b) During the radio microwave (radar) ~~six month~~ accuracy test the technician shall test each instrument to determine that the:

- (1) Automatic operate function is disconnected.
- (2) Automatic alarms, audio and visual is disconnected.

- (3) Automatic locking capability is disconnected.
- (4) Instrument does not provide an external control that would permit the adjustment or correction of the zero or calibration readings.
- (5) The "High Speed Lock" function is disconnected.
- (6) If the above five functions have not been disconnected the radio microwave (radar) instrument shall not pass the six month test.

**Note:** The automatic functions that shall be disconnected are any and all automatic violation alarm or lock capabilities that occur prior to the speed measuring instrument being manually locked by the operator.

(c) Tuning Fork Accuracy Test

(1) Every tuning fork K-Band and X-Band used to determine radio microwave (radar) accuracy shall be tested by a technician possessing at least a valid second class or general radiotelephone license from the Federal Communications Commission or a certification issued by organizations or committees endorsed by the Federal Communications Commission. This test shall be conducted ~~at least every six months~~ in accordance with the requirements prescribed in G.S. 8-50.2.

(2) When tested in accordance with (c)(1) of this Rule the frequency of vibration shall read within plus-minus .75 mph of that speed stamped on the tuning fork.

(3) All tuning forks that are not stamped with a serial number for identification purposes shall be so impressed on the handle or heel, not on the tine portion, by the testing technician. The serial number is to be the same as the serial number on the radar amplifier, radar control cabinet, radar antenna or such other identifying number as assigned by the owning agency.

*Statutory Authority G.S. 17C-6.*

**.0604 TESTING: TIME-DISTANCE**

(b) Stopwatch Accuracy Test

(1) Every stopwatch used to enter a known amount of time into the time-distance speed-measuring instrument computer to determine accuracy shall be tested by a technician possessing at least a valid second class or general radiotelephone license from the Federal Communications Commission or a certification issued by organizations or committees endorsed by the Federal Communications Commission.

This test shall be conducted ~~at least every six months~~ in accordance with the requirements prescribed in G.S. 8-50.2.

- (2) The stopwatch shall be hand held, with a total time accumulation of at least five minutes. The stopwatch shall be accurate within plus-minus one second in five minutes.

*Statutory Authority G.S. 17C-6.*

#### **.0605 OPERATING PROCEDURES**

The operating procedures and operator calibration and testing for accuracy procedures as outlined in Appendix "A" of the Radar Operator Training and Time-Distance Operator Training Course Manuals published by the North Carolina Justice Academy (1982) are hereby adopted by reference, and shall automatically include any later amendments and editions of the adopted matter as authorized by G.S. 150B-14(c). Copies of the above are available for review at the Department of Justice, Criminal Justice Standards Division, Raleigh, North Carolina and at cost from the North Carolina Justice Academy, Post Office Drawer 99, Salemburg, North Carolina 28385.

*Statutory Authority G.S. 17C-6.*

### **SUBCHAPTER 9E - IN-SERVICE TRAINING PROGRAMS**

#### **SECTION .0100 - LAW ENFORCEMENT OFFICER'S IN-SERVICE TRAINING PROGRAM**

##### **.0101 PURPOSE**

In order to ensure a minimum level of proficiency in specific topical areas for law enforcement officers serving the governmental agencies within the state, the commission establishes the law enforcement officers' annual in-service training program.

*Statutory Authority G.S. 17C-6; 17C-10.*

##### **.0102 TOPICAL AREAS**

The following topical areas are hereby established as minimum topics to be included in the law enforcement officers' annual in-service training program:

- (1) Firearms Training and Qualification.

*Statutory Authority G.S. 17C-6; 17C-10.*

##### **.0103 DEPARTMENT HEAD RESPONSIBILITIES**

The department head is responsible for ensuring that the annual in-service firearms training is

conducted according to minimum specifications as outlined in Rules 9E .0105 and 9E .0106. In addition, the department head:

- (1) shall review departmental policies regarding the use of force during the agency's annual in-service firearms training program. The department head shall certify that this review has been completed by submitting a commission-approved form to the Criminal Justice Standards Division; and
- (2) shall report to the Criminal Justice Standards Division once each calendar year a roster of all law enforcement officers who fail to successfully complete the annual in-service firearms training and qualification and shall certify that all law enforcement officers in the agency not listed did successfully complete the training. This roster shall reflect the annual in-service firearms training and qualification status of all law enforcement officers employed by the agency as of December 31 of each calendar year and shall be received by the Criminal Justice Standards Division no later than the following January 15th; and
- (3) shall maintain in each officer's file documentation on a commission-approved form that the officer has completed the minimum annual in-service firearms training requirement; and
- (4) shall, where the officer fails to successfully qualify with any of the weapons specified in Rule 9E .0106(a) and (b), prohibit access to such weapon(s) until such time as the officer obtains qualification; and
- (5) shall, where the officer fails to successfully qualify with any of the weapons specified in Rule 9E .0106(d), prohibit the possession of such weapon(s) while on duty or when acting in the discharge of that agency's official duties, and shall deny the officer authorization to carry such weapon(s) concealed when off-duty, except when the officer is on his own premises.

*Statutory Authority G.S. 17C-6; 17C-10.*

##### **.0104 INSTRUCTORS**

The following requirements and responsibilities are hereby established for instructors who conduct the law enforcement officers' annual in-service training program for firearms training and qualification:

- (1) The instructor shall hold "Specific Instructor Certification - Firearms" issued by the commission.
- (2) The instructor shall deliver the training consistent with the minimum specifications

as established in Rules 9E .0105 and 9E .0106.

- (3) The instructor shall report the successful or unsuccessful completion of training for each officer to the department head. Such reporting shall be on a commission-approved form.
- (4) Where the officer fails to successfully qualify with any weapon, the instructor shall inform the officer that the officer did not qualify and the instructor shall deliver a commission-approved form to the officer which shall be signed by the officer. This form shall instruct the officer not to use the weapon and shall require the officer to notify the department head or designated representative within 24 hours of the failure to qualify. The instructor shall personally deliver this form or send the form by certified mail to the department head or designated representative within 72 hours of the failure to qualify.

*Statutory Authority G.S. 17C-6; 17C-10.*

#### **.0105 MINIMUM TRAINING SPECIFICATIONS**

At a minimum, the following specifications shall be incorporated in the agency's annual in-service firearms training and qualification course:

- (1) Use of Force:
  - review the authority to use deadly force [G.S. 15A-401(d)(2)] including the relevant case law and materials.
- (2) Safety:
  - (A) range rules and regulations;
  - (B) handling of a firearm;
  - (C) malfunctions.
- (3) Review of Basic Marksmanship Fundamentals:
  - (A) grip, stance, breath control and trigger squeeze;
  - (B) sight and alignment/sight picture;
  - (C) nomenclature.
- (4) The "Specialized Firearms Instructor Training Manual" as published by the North Carolina Justice Academy is hereby adopted by reference, and shall automatically include any later amendments or editions of the adopted matter as authorized by G.S. 150B-14(c), to apply as a minimum guide for conducting the annual in-service firearms training program. Copies of this publication may be inspected at the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1 West Morgan Street

Court of Appeals Building  
Post Office Drawer 149  
Raleigh, North Carolina 27602

*Statutory Authority G.S. 17C-6; 17C-10.*

#### **.0106 IN-SERVICE FIREARMS QUALIFICATION SPECIFICATIONS**

- (a) All certified law enforcement officers shall be required to qualify with their individual and department-approved service handgun(s) a minimum of once each calendar year. For the purpose of this specification, service handgun shall include any semi-automatic pistol or revolver. In addition to the requirements specified in Rule .0105 of this Subchapter, the following courses of fire shall be used when conducting qualification with the service handgun(s):
  - (1) Day Course - must include a minimum of 30 rounds and shooters must fire from the 3, 7, 15 and 25 yard lines.
  - (2) Night Course - must include a minimum of 30 rounds and shooters must fire from the 3, 7 and 15 yard lines. Light conditions should vary from no light to available light.
- (b) All certified law enforcement officers who are issued or authorized to use a shotgun, rifle or automatic weapon shall be required to qualify with each weapon respectively a minimum of once each calendar year. In addition to the requirements specified in Rule .0105 of this Subchapter, the following courses of fire shall be used when conducting qualification with the shotgun, rifle or automatic weapon:
  - (1) Shotgun Course - must include a minimum of 5 rounds and shooters must fire from the 15 and 25 yard lines.
  - (2) Rifle Course - must include a minimum of 5 rounds and shooters must fire from the 50 yard line.
  - (3) Automatic Weapon - must include a minimum of 20 rounds.
- (c) Qualification shall be completed with duty equipment and duty ammunition for all weapons.
- (d) All certified law enforcement officers who are authorized to carry an off-duty handgun(s) shall be required to qualify with each such handgun consistent with the specifications as outlined in Rules .0105 and .0106(a) of this Section.
- (e) To satisfy the minimum training requirements for all in-service firearms qualifications, an officer shall attain a minimum of 70 percent accuracy with each weapon.

Statutory Authority G.S. 17C-6; 17C-10.

**.0107 FAILURE TO QUALIFY**

(a) Upon notification that an officer has failed to meet the requirements for in-service firearms training and qualification as specified in Rule .0106(a) of this Subchapter, the law enforcement officer's certification shall be suspended.

(b) The suspended officer may request authorization for limited enrollment in a presentation of the "Basic Recruit Training -- Law Enforcement" course to complete the minimum 40 hour firearms training topic.

(c) Such enrollment and successful completion must occur within the 12 month period following suspension of law enforcement officer certification.

(d) Failure to enroll and successfully complete the minimum 40 hour firearms training topic in a "Basic Recruit Training -- Law Enforcement" course within the prescribed 12 month period will subject the officer to training evaluation as specified in Rule 9B .0403.

(e) No officer suspended under Paragraph (a) of this Rule may work as a certified law enforcement officer until:

- (1) the department head forwards to the commission documentary evidence verifying that the officer has complied with the requirements for reinstatement of certification as specified in this subsection; and
- (2) the department head and the officer receive from the commission documentation that the commission has terminated the suspension and reissued law enforcement certification to the suspended officer.

Statutory Authority G.S. 17C-6; 17C-10.

**TITLE 20 - STATE TREASURER**

*Notice is hereby given in accordance with G.S. 150B-12 that the State Treasurer intends to adopt regulation cited as 20 NCAC 8 .0206; amend regulations cited as 20 NCAC 8 .0101 - .0102(b), .0108, .0202 - .0205, .0301 - .0302, .0401 - .0403, .0501; repeal regulations cited as 20 NCAC 8 .0106 - .0107, .0201.*

*The proposed effective date of this action is November 1, 1988.*

*The public hearing will be conducted at 10:00 a.m. on August 16, 1988 at Conference Room, Room 100, 325 N. Salisbury St., Raleigh, N.C.*

*Comment Procedures: A written copy of the comments will be required of all persons wishing to speak at the public hearing. The hearing record will remain open for written comments from July 15, 1988 to August 16, 1988. Written comments should be sent to the APA Coordinator at the address above.*

**CHAPTER 8 - ESCHEATS AND ABANDONED PROPERTY**

**SECTION .0100 - GENERAL AND ADMINISTRATION**

**.0101 ORGANIZATION AND FUNCTIONS**

(a) The Escheat Fund is operated by the Escheat and Unclaimed Property Section of the Department of State Treasurer. This section is charged with the collection of escheats and abandoned property from all ~~parties except insurers, holders,~~ the administration of the fund and the processing of claims for escheated property. ~~from the owner(s) or prior holders on behalf of the owner(s).~~

~~(b) Collection from insurer of abandoned property subject to the custody of the Escheat Fund is charged to the Financial Analysis Division of the Department of Insurance, P. O. Box 26387, Raleigh, North Carolina 27611.~~

~~(c)~~ (b) The following is general information about the Escheat Fund:

- (1) The chief officer is the Escheat Officer.
- (2) The mailing address is Department of State Treasurer, 325 North Salisbury Street, Raleigh, North Carolina 27611.
- (3) The office is located in the Albemarle Building, 325 North Salisbury Street, Raleigh, North Carolina.

~~(d)~~ (c) Examination of records may be made from 9:00 a.m. to 11:30 a.m. and 2:00 p.m. to 4:00 p.m., Tuesday through Thursday.

Statutory Authority G.S. 116B-42.

**.0102 DEFINITIONS**

(b) The following words and phrases defined in this Rule will have the meanings indicated when used in this Chapter, unless the context clearly requires another meaning.

(1) "Escheat Officer" is the person designated by the State Treasurer to administer the fund.

(2) "Fund" is the Escheat Fund established by G.S. 116B-26 and includes the Escheat Account.

(3) (1) "Escheats" includes all property, real and personal, tangible and intangible which is subject to the claim of the fund

~~under~~ Chapter 116B of the General Statutes.

Statutory Authority G.S. 116B-42.

**.0106 SUBDIVISION OF THE FUND:  
FISCAL YEAR (REPEALED)**

**.0107 DISTRIBUTIONS AND TRANSFERS  
(REPEALED)**

Statutory Authority G.S. 116B-36; 116B-37; 116B-42.

**.0108 FEES TO BE COLLECTED**

The following fees shall be collected:

- (1) Dry copy reproduction: fifty cents (\$0.50) per page by mail; twenty cents (\$0.20) in office; one dollar (\$1.00) for the first page and twenty cents (\$0.20) for each additional page for each request;
- (2) Reproduction from microform: two dollars and twenty-five cents (\$2.25) per page; requests will be processed by the State Archives as provided in their rules; and
- (3) Reproduction of computer printout: fifty cents (\$0.50) per page.
- (3) Computer provided output: Costs will be computed by job as follows: Actual computer time used X average rate for computer time for prior three-month period plus cost of any supplies furnished. Each request must be accompanied by a deposit of two hundred (\$200.00) dollars per file requested.
- (4) Requests for copies to be mailed must be accompanied by the total required fee and a self-addressed stamped envelope.

Statutory Authority G.S. 12-3.1; 116B-42.

**SECTION .0200 - INTANGIBLE PERSONAL  
PROPERTY**

**.0201 REPORTING OF ESCHEATS BY  
INSURERS (REPEALED)**

Statutory Authority G.S. 116B-29; 116B-42.

**.0202 REPORTING OF ESCHEATS**

All ~~other~~ persons shall report to the fund ~~di-~~  
~~rectly~~ at the address in 20 NCAC 8 .0101 as pre-  
scribed by law and by this Chapter. All  
payments shall be made to the "Department of  
State Treasurer - Escheat Fund."

Statutory Authority G.S. 116B-29; 116B-42.

**.0203 ESCHEAT REPORT**

Each holder shall submit the following:

(1) Each holder shall submit on or before the  
due date required by law Form ASD-21  
(ASD-21A for insurers) and as many forms  
ASD-22 as are required to provide the  
owner information.

(2) Form ASD-21 (ASD-21A for insurers) shall  
be promulgated by the State Treasurer and  
will identify the holder, provide for the  
number of Form ASD-22 (Continuation  
Form) attached, the total thereof, and shall  
be verified as provided by law.

(3) Form ASD-22 shall be promulgated by the  
State Treasurer and identify the property to  
be transferred as provided in G.S. 116B-29;  
the present holder, and the property classi-  
fication code for the property.

(4) Items of value under twenty-five dollars  
(\$25.00) may be reported in the aggregate  
by property classification code.

Each holder shall report intangible personal  
property to the Escheat Fund on Form ASD-21  
together with Form ASD-159 which together  
shall include as a minimum:

- (1) Holder's legal name and address;
- (2) Holder's federal tax identification number;
- (3) A contact person and his or her telephone  
number;
- (4) Separately for each person with property in  
each property class in excess of the amount  
specified in G.S. 116B-29(b)(1):
  - (a) The name(s) of the owner(s);
  - (b) The last known address(es) of the  
owner(s);
  - (c) The social security or tax identification  
number(s) of the owner(s), if known;
  - (d) A description of the property;
  - (e) Serial number(s) or other identification  
number(s) of the property, if any, and
  - (f) The amount being transferred;
- (5) Aggregate by property classification code  
pursuant to G.S. 116B-29(b)(1); and
- (6) Verification pursuant to G.S. 116B-29(c).

This Rule does not apply to property claimed by  
the Escheat Fund pursuant to an audit which  
shall be reported as provided in 20 NCAC 4  
.0206.

Statutory Authority G.S. 116B-29; 116B-42.

**.0204 PROPERTY CLASSIFICATION CODE**

The following property classification codes will  
shall be used:

- (1) 4210 for GS 116B-12(a) property valued  
at one thousand dollars (\$1,000) or less;
- (2) 4215 for GS 116B-12(a) property valued  
at over one thousand dollars (\$1,000);
- (3) 4220 for GS 116B-12(b) property;
- (4) 4230 for GS 116B-12(c) property;

- (5) ~~1240 for GS 116B-12(d) property;~~
- (6) ~~1300 for GS 116B-13 property;~~
- (7) ~~1400 for GS 116B-14 property;~~
- (8) ~~1500 for GS 116B-15 property;~~
- (9) ~~1600 for GS 116B-16 property;~~
- (10) ~~1710 for GS 116B-17(a) property;~~
- (11) ~~1720 for GS 116B-17(b) property;~~
- (12) ~~1800 for GS 116B-18 property;~~
- (13) ~~1900 for GS 116B-19 property;~~
- (14) ~~2000 for GS 116B-20 property;~~
- (15) ~~2100 for GS 116B-21 property;~~

Code Description

- (1) 1001 Checking accounts;
- (2) 1002 Savings or shares greater than one thousand dollars (\$1,000);
- (3) 1003 Savings or shares less than one thousand dollars (\$1,000);
- (4) 1004 Certificates of deposits greater than one thousand dollars; (\$1,000);
- (5) 1005 Certificates of deposits less than one thousand dollars; (\$1,000);
- (6) 1006 IRA's greater than one thousand dollars (\$1,000);
- (7) 1007 IRA's less than one thousand dollars (\$1,000);
- (8) 1008 Christmas club accounts;
- (9) 1009 Money on deposit to secure funds;
- (10) 1010 Security deposits;
- (11) 1011 Unidentified deposits;
- (12) 1012 Suspense accounts;
- (13) 2001 Paving agent accounts;
- (14) 2002 Undelivered dividends or uncashed dividends;
- (15) 2003 Funds held in a fiduciary capacity;
- (16) 2004 Suspense liabilities;
- (17) 2005 Escrow accounts;
- (18) 2006 Trust vouchers;
- (19) 3001 Cashiers checks;
- (20) 3002 Certified checks;
- (21) 3003 Registered checks;
- (22) 3004 CD interest checks;
- (23) 3005 Drafts;
- (24) 3006 Warrants;
- (25) 3007 Money orders;
- (26) 3008 Travelers checks;
- (27) 3009 Foreign exchange checks;
- (28) 3010 Expense checks;
- (29) 3011 Pension checks;
- (30) 3012 Credit checks or memos;
- (31) 3013 Vendor checks;
- (32) 3014 Any checks that have been written off to income or surplus;
- (33) 3015 Any other outstanding checks;
- (34) 4001 Utility deposits;
- (35) 4002 Membership fees;
- (36) 4003 Refunds or rebates;
- (37) 4004 Capital credit distributions;

- (38) 5001 Amounts due and payable under terms of life insurance policies;
- (39) 5002 Amount due and payable under terms of other insurance policies;
- (40) 5003 Claim payments;
- (41) 5004 Drafts not presented for payment;
- (42) 5005 Matured whole life, term or endowment insurance policies, annuity or supplementary contracts;
- (43) 5006 Premium refunds;
- (44) 5007 Agent credit balances;
- (45) 5008 Unidentified remittances;
- (46) 5009 Other amounts due under policy terms;
- (47) 6001 Trust funds;
- (48) 6002 Cash bonds;
- (49) 6003 Partial payments;
- (50) 6004 Judgements;
- (51) 6005 Any other funds held by governmental agency;
- (52) 7001 Dividends;
- (53) 7002 Interest;
- (54) 7003 Principal payments;
- (55) 7004 Equity payments;
- (56) 7005 Profits;
- (57) 7006 Funds paid toward the purchase of shares, or interest in a financial or business organization;
- (58) 7007 Funds received for the redemption of stocks and bonds;
- (59) 7008 Bonds;
- (60) 7009 Shares of stock including underlying shares;
- (61) 7010 Cash for fractional shares;
- (62) 7011 Unexchanged stock of successor corporation;
- (63) 7012 Mutual funds;
- (64) 7013 Dividend reinvestment plans;
- (65) 7014 Any other sum owing to a shareholder, certificate holder, member, bond holder or other security holder, or participating member of a cooperative;
- (66) 7015 Any other certificates of ownership;
- (67) 8001 Wages, payroll or salary;
- (68) 8002 Commissions;
- (69) 8003 Workers compensation benefits;
- (70) 8004 Payments for goods and services;
- (71) 8005 Customer overpayments;
- (72) 8006 Unidentified remittances;
- (73) 8007 Unrefunded overcharges;
- (74) 8008 Accounts payable;
- (75) 8009 Credit balances in accounts receivable;
- (76) 8010 Discounts due;
- (77) 8011 Refunds due;
- (78) 8012 Unredeemed gift certificates;
- (79) 8013 Unclaimed loan collateral;



- (80) 8014 Sums payable under pension and profit sharing plans (IRA, Keogh, etc.);
- (81) 8015 Mineral proceeds;
- (82) 8016 Royalties;
- (83) 8017 Rents;
- (84) 8018 Any other miscellaneous intangible personal property;
- (85) 8019 Any property distributable in the course of voluntary or involuntary dissolution;
- (86) 8020 Undelivered shares of stock following a merger;
- (87) 9001 Real property which succeeds to the state through Escheat;
- (88) 9002 Personal property which succeeds to the state;
- (89) 9003 Safe deposit box contents.

*Statutory Authority G.S. 116B-29; 116B-42.*

#### **.0205 LATE FILING OF REPORT**

(a) ~~All late reports must include a reason for the failure to file on the due date. All reports with no letter explaining a legitimate problem may be assessed the penalties prescribed in G.S. 116B-41(a) and (c).~~

(a) Payments on account of property reported to the Escheat Fund as abandoned property after the date which the law requires that the sums of money be paid to the State Treasurer shall be assessed interest penalties as provided in G.S. 116B-41(c). Interest penalties shall be assessed for each day after the due date until the moneys are received by the Escheat Fund. Billings for interest penalties totaling ten dollars (\$10.00) or less will not be made because it is uneconomical to do so.

(b) If a holder wishes to avoid the penalties of G.S. 116B-41(a), he may file a request for an extension in writing prior to the time the report is due. The request must include the holder's name and address, the holder's principal business, and a valid reason for the delay. Reasons for delay will only be considered valid if the reasons stem from circumstances which are unforeseen and unforeseeable. Each extension will not exceed three months, but may be renewed upon reapplication for up to six months. If an extension is granted, the holder will not be subject to the penalties for in G.S. 116B-41(a) during the extension period.

(c) If a holder wishes to avoid the interest penalty of G.S. 116B-41(c), he may do so by filing a request for extension together with an estimated report or a statement of belief that his report will be negative. If an extension is granted, no interest penalty will be imposed for the extension period.

*Statutory Authority G.S. 116B-41; 116B-42.*

#### **.0206 REPORTING PROPERTY FOUND ON AUDIT**

(a) Claims for abandoned property resulting from an audit shall be made on Form ASD-160.

(b) The holder shall send the notice required by G.S. 116B-28 unless the Form ASD-160 shows that notice is not required.

(c) The holder shall transfer any property to lawful owners which are identified.

(d) The holder shall complete the form showing property no longer escheatable because of transfer to the lawful owner and property still subject to transfer to the custody of the State Treasurer for the Escheat Fund.

(e) Transfer by payment or delivery of non-cash property shall be made with the return of Form ASD-160. Penalties shall be calculated and remitted at the same time.

(f) Copies of payment vouchers or other proof that the items are no longer escheatable shall be sent with the return of Form ASD-160.

*Statutory Authority G.S. 116B-29; 116B-42.*

#### **SECTION .0300 - TANGIBLE PERSONAL PROPERTY**

##### **.0301 NOTIFICATION BY HOLDER TO ESCHHEAT FUND**

(a) Each holder shall notify the Escheat Fund of the existence of tangible property when it becomes subject to the custody of the State Treasurer and shall maintain the property in a manner which will prevent undue loss of value until directions for either disposition or transfer to the State Treasurer are received. The Escheat Fund will hold the holder liable for any loss resulting from the breach of a fiduciary duty by the holder.

(b) The notification shall be made on Form ASD-127 ~~or its equivalent~~ and shall show as a minimum:

- (1) Holder's legal name and address;
- (2) ~~An identification number, description, condition and estimated value for each separate piece of property;~~
- (3) ~~The owner's name and last known address for each piece or group of pieces of property; and~~
- (4) ~~Verification by an official with knowledge of the circumstances and property.~~
- (2) A contact person and his or her telephone number;
- (3) Separately for each item of tangible property:
  - (A) A sequence number,
  - (B) The name of the owner(s),

- (C) The last known address(es) of the owner(s).
  - (D) The social security or tax identification number(s) of the owner(s), if known,
  - (E) A description of the property,
  - (F) Serial number(s) or other identification number(s), if any, and
  - (G) The approximate value of the property; and
  - (4) Verification pursuant to G.S. 116B-29(c).
- (c) Each piece of property shall be separately numbered. The description condition and estimated value shall be submitted for each separate piece of tangible personal property to be escheated.

*Statutory Authority G.S. 116B-31; 116B-42.*

#### .0302 NOTIFICATION BY ESCHEAT FUND TO HOLDER

- (a) The Escheat Fund will provide to the holder with a letter of instruction. The letter which will identify the property to be transferred to the custody of the State Treasurer and the property which may be otherwise disposed. The holder may dispose of any property which is not required to be transferred to the custody of the State Treasurer at his sole discretion.
- (b) The holder continues to be responsible for the preservation of the value of the property until transfer is actually made to the custody and control of the State Treasurer.

*Statutory Authority G.S. 116B-31; 116B-42.*

### SECTION .0400 - REFUNDS

#### .0401 APPLICATION FOR REFUNDS

- (a) The following persons may apply for refunds on behalf of an owner of property transferred to the Escheat Fund: with a value of twenty-five dollars (\$25.00) or more at the time of transfer:
  - (1) the owner or a personal representative of an owner,
  - (2) the holder or a successor to the holder, and
  - (3) an attorney in fact under a written power of attorney from the owner.
- (b) Only the holder or a successor to the holder may apply for a refund of property transferred to the Escheat Fund with a value of less than twenty-five dollars (\$25.00) at the time of the transfer.
- (c) Separate applications are required for different holders and for transfers of different years by the same holder.
- (b) Claims will be approved only for named holders and only for named years.

(c) Every claimant shall agree to the indemnification provisions of G.S. 116B-38(e) before a claim will be approved.

(d) Whenever the holder of property rejects, or otherwise refuses to process in a timely manner, a claim made by a person claiming ownership, the claimant may appeal, in writing, to the Escheat Officer.

(e) Whenever the Escheat Officer rejects, or otherwise refuses to process in a timely manner, a claim by a person claiming ownership, the claimant may appeal, in writing, to the State Treasurer.

*Statutory Authority G.S. 116B-38; 116B-42.*

#### .0402 REQUIRED DOCUMENTATION OF APPLICATION FOR REFUND

- (a) All applications shall be made on Form ASD-111, which shall be promulgated by the State Treasurer, and shall identify:
  - (1) the property claimed,
  - (2) the owner as shown on the Escheat records,
  - (3) the holder when transferred to the Escheat Fund, and
  - (4) the current owner, which may be either (2) or (3).
- (b) Form ASD-111 shall identify the property claimed, the owner thereof, the holder when transferred to the Escheat Fund, and the claimant if other than the owner or holder.
- (c) (b) Personal representatives, and other fiduciaries, custodians, and attorneys in fact shall submitted submit a certified true copy of their appointment and authority.
- (d) All applications shall conform to the requirements in G.S. 116B-38(e).

(c) Claims must include adequate evidence that the person in behalf of whom the claim is made is the true and actual owner of the property claimed. There is a rebuttable presumption that property of a business association is not lost in the ordinary course of business.

(d) Any person who received or will receive a fee for the identification of the owner, the location of the missing property or the preparation of a claim form shall sign the form as indicated therein, and shall insert his or her license number, if licensed by the Private Protective Services Board.

*Statutory Authority G.S. 116B-38; 116B-42.*

#### .0403 PAYMENT OF REFUNDS

- (a) When the holder has certified in Form ASD-111, that he has already made payment to

the owner, the refund will be made by warrant on the State Treasurer in the name of the holder.

(b) All other refunds will be made by warrant on the State Treasurer in the name of the owner. ~~This will be mailed to the address of the claimant shown on Form ASD-111.~~

Statutory Authority G.S. 116B-38; 116B-42.

## SECTION .0500 - RECORDS

### .0501 PUBLIC ACCESS TO RECORDS

(a) Any person desiring to search the records shall register with the Escheat Office. ~~This registration shall include his name and address and his reason for desiring access to the records.~~

(b) Prior to being given access to the public records the registrant must:

- (1) Provide his or her name and address;
- (2) Provide his or her reason for desiring access to the records;
- (4) ~~(3)~~ Agree not to remove, deface or destroy any records;

~~(2)~~ (4) Observe hours outlined by the State Treasurer, and act without disturbing the statutory duty of the State Treasurer to administer and protect the Escheat Fund and its records; and

~~(3)~~ (5) Produce proof of his identity.

(c) Any registrant other than the owner, in addition to the requirements in this Rule, must sign a statement that: ~~he has read G.S. 116B-43 and is fully aware of its meaning.~~

- (1) He or she has read G.S. 116B-43 and is fully aware of its meaning;
- (2) He or she is aware that the Private Protective Services Board has ruled that G.S. 74C-3(a)(8)b is applicable to persons searching for owners of escheated property and a license is required by said board;
- (3) He or she is or, is not, licensed by said board and if licensed must furnish their license number.

(d) No person other than the staff of the Escheat Office shall enter the records area. The registrant ~~will~~ may be required to request records by name and he or she will be allowed to view them only in a place designated by personnel of the Escheat Office.

(e) The person in charge of the records may at any time in his sole discretion restrict the use of brief cases, files, etc., in the area in which the registrants view the escheat records.

Statutory Authority G.S. 116B-36; 116B-42; 116B-43.

## TITLE 25 - OFFICE OF STATE PERSONNEL

*Notice is hereby given in accordance with G.S. 150B-12 that the Office of State Personnel/State Personnel Commission intends to amend regulations cited as 25 NCAC 1L .0004 and .0005.*

*The proposed effective date of this action is November 1, 1988.*

*The public hearing will be conducted at 9:00 a.m. on August 16, 1988 at 101 West Peace Street, Raleigh, N. C.*

*Comment Procedures: Interested persons may present statements orally or in writing at the hearing or in writing prior to the hearing by mail addressed to: Drake Maynard, Office of State Personnel, 116 W. Jones Street, Raleigh, N. C. 27611.*

## CHAPTER 1 - OFFICE OF STATE PERSONNEL

### SUBCHAPTER 1L - AFFIRMATIVE ACTION

#### .0004 PROGRAM IMPLEMENTATION: DEPARTMENT AND UNIVERSITY LEVEL

(a) Each department head of state government and University Chancellor shall develop and implement a departmental or university affirmative action program designed to solve problems in those areas that adversely affect minorities, women and handicapped persons.

(b) Each department and university shall present a plan for this affirmative action program to the Office of State Personnel for review, technical assistance and approval by the Director of State Personnel.

(c) Each department's and university's affirmative action plan shall meet all requirements of the administrative EEO/AA Planning and Resources Guide and shall include but not be limited to the following elements:

- (1) a workforce analysis designed to examine the number and levels at which it employs minorities, women, and handicapped persons;
- (2) a set of objectives, goals and timetables;
- (3) a recruitment program designed to attract minorities, women and handicapped persons to all levels of employment;
- (4) an interviewing program that includes, for each vacancy, the interviewing of at least three applicants representative of the eth-

nie, sex and handicapped composition of available applicants;

- (5) a program of promotion and career ladders for present employees;
- (6) a program of training to enhance employee development and advancement opportunities. Such programs shall include a process to ensure that minorities, women and handicapped persons have adequate representation and participation in internal and external training programs such as Supervisory Training, Public Managers Program and Educational Assistance Program; ~~and Government Executives Institute;~~
- (7) A program of orientation and training in equal employment opportunity and affirmative action compliance for all managers, supervisors and others authorized to make or recommend personnel actions;
- (8) Reduction-in-force procedures ~~which maintains~~ are designed to maintain the proportion of protected group members in the departmental or university workforce and preserves gains made in utilizing protected group members;
- (9) An annual internal evaluation system; i.e., WPPR to hold managers ~~to~~ at all levels accountable for the progress of the department's and university's affirmative action program;
- (10) an internal reporting system to measure total program effectiveness.

Statutory Authority G.S. 126-4(10); 126-16.

#### .0005 PROGRAM PLAN REVIEW

(a) Each state department/agency and university employing SPA employees shall submit annually an Affirmative Action Plan (update of entire plan or revisions as specified) or shall submit an application for a three-year EEO/AA planning cycle and a Three-year Affirmative Action plan to the Office of State Personnel for review, technical assistance, and approval by the State Personnel Director. ~~The submission date will be October 1 of each year for annual plans or October 1 of the year in which the previously approved three year plan is to end. The constituent institutions of the Greater University of North Carolina shall not be required to comply with this provision until July 1, 1988. The submission date will be the last working day of January for annual plans or January 1 of the year in which the previously approved three-year plan is to end.~~

(b) Each state department/agency and university applying for three-year Affirmative Action Plan approval shall, in the judgement of the State Personnel Director, meet each of the preliminary requirements for three-year EEO/AA plan approval stated in the Standards For Three-Year Plan Approval issued by the Equal Opportunity Services Division of the Office of State Personnel.

(c) All reports submitted to the Office of State Personnel shall be reviewed by the department head or university chancellor and signed by the EEO Officer, verifying the process of program implementation.

Statutory Authority G.S. 126-4(10); 126-16.

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**LIST OF RULES AFFECTED**

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**NORTH CAROLINA ADMINISTRATIVE CODE****EFFECTIVE: July 1, 1988**

AGENCY				ACTION TAKEN
<u>DEPARTMENT OF ADMINISTRATION</u>				
1	NCAC	6B	.0601	Repealed
			.0606	Repealed
			.0608	Amended
		6E	.0301 - .0302	Repealed
			.0306 - .0307	Repealed
		10	.0301 - .0303	Repealed
		15	.0305	Repealed
		30A	.0206	Amended
		33	.0101	Amended
			.0303 - .0304	Repealed
	.1501	Amended		
<u>DEPARTMENT OF AGRICULTURE</u>				
2	NCAC	9L	.1005	Amended
		27C	.0003	Repealed
		29A	.0001 - .0002	Repealed
		29B	.0001	Repealed
		29C	.0001 - .0002	Repealed
		31B	.0001 - .0002	Repealed
		31D	.0001	Repealed
<u>DEPARTMENT OF COMMERCE</u>				
4	NCAC	5D	.0202	Amended
		6C	.0302	Amended
		7	.0302 - .0303	Amended
			.0305	Amended
			.0401 - .0402	Repealed
			.0503	Amended
		13A	.0103	Amended
		13E	.0201	Amended
		13G	.0103	Repealed
		17	.0201 - .0202	Adopted
<u>DEPARTMENT OF HUMAN RESOURCES</u>				
10	NCAC	1B	.0225	Adopted
		3R	.0105 - .0106	Repealed
			.0108	Repealed
			.0208 - .0211	Repealed
			.0307	Amended
		3U	.0101 - .0102	Amended
			.0202	Amended
			.0204	Amended
			.0205	Adopted
			.0302 - .0303	Amended
			.0401	Amended
			.0402	Repealed
			.0403	Adopted

## *LIST OF RULES AFFECTED*

.0501 - .0504	Repealed
.0505	Amended
.0506 - .0511	Adopted
.0703 - .0704	Amended
.0706	Repealed
.0707 - .0709	Amended
.0710 - .0711	Adopted
.0714	Adopted
.1001	Amended
.1004	Amended
.1601 - .1602	Amended
.1603	Repealed
.1604	Amended
.1605	Repealed
.1606	Amended
.1607 - .1611	Repealed
.1612 - .1613	Amended
.1614	Repealed
.1701	Amended
.1902 - .1904	Amended
.2006 - .2012	Adopted
.2101	Amended
.2203	Amended
.2205	Amended
.2401	Adopted
.2501 - .2510	Adopted
.2601 - .2612	Adopted
8G .0701 - .0712	Repealed
.0713 - .0723	Adopted
26G .0302	Amended
44D .0102	Amended
47A .0502	Amended

### DEPARTMENT OF INSURANCE

11	NCAC	1	.0101 - .0102	Repealed
			.0202	Repealed
			.0206 - .0208	Repealed
			.0701 - .0702	Repealed
		2	.0102	Repealed
			.0201 - .0204	Repealed
		3	.0001	Repealed
			.0003 - .0004	Repealed
		4	.0112 - .0114	Repealed
			.0311	Repealed
			.0414	Repealed
		5	.0102	Repealed
			.0104	Repealed
		6	.0102 - .0104	Repealed
		7	.0102 - .0104	Repealed
		8	.0101 - .0104	Repealed
			.0301 - .0307	Repealed
		10	.0101 - .0103	Repealed
			.0201	Repealed
			.0401	Repealed
			.0904	Repealed
		11A	.0201 - .0202	Repealed
			.0301 - .0306	Repealed
			.0433 - .0434	Repealed

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**LIST OF RULES AFFECTED**

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		.0450 - .0451	Repealed
11B		.0201	Repealed
		.0301	Repealed
		.0401	Repealed
11C		.0101	Repealed
		.0201	Repealed
		.0301	Repealed
		.0401 - .0402	Repealed
11D		.0101	Repealed
		.0201	Repealed
		.0301	Repealed
11E		.0101	Repealed
		.0107 - .0109	Repealed
		.0301	Repealed
		.0401	Repealed
11F		.0001	Repealed
11G		.0005	Repealed
12		.0102 - .0103	Repealed
		.0301	Repealed
		.0401	Repealed
		.0444	Repealed
		.0451	Repealed
		.0501	Repealed
13		.0201 - .0222	Repealed
14		.0101 - .0103	Repealed
		.0401 - .0408	Repealed
		.0410	Repealed

**DEPARTMENT OF JUSTICE**

12	NCAC	9A	.0107	Amended
		9B	.0602	Amended
			.0606	Amended

**DEPARTMENT OF LABOR**

13	NCAC	1A	.0202 - .0204	Repealed
		1B	.0101	Amended
			.0201	Repealed
			.0202 - .0203	Amended
			.0304	Amended
			.0306 - .0307	Amended
			.0308	Repealed
			.0402	Amended
			.0502	Amended
			.0503 - .0508	Repealed
			.0601	Repealed
			.0603 - .0604	Repealed
		1C	.0103	Amended
			.0104 - .0105	Repealed
			.0205	Amended
			.0206	Repealed
			.0301 - .0302	Repealed
			.0401 - .0402	Repealed
			.0501 - .0506	Repealed
		4A	.0101	Amended
		4C	.0003	Repealed
		6	.0101	Amended
			.0104	Repealed

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**LIST OF RULES AFFECTED**

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		.0105	Amended
7A		.0103	Amended
		.0201 - .0207	Repealed
7B		.0103	Amended
		.0106	Amended
		.0109	Amended
		.0111	Repealed
		.0112	Amended
		.0114	Amended
		.0119	Repealed
		.0201	Amended
		.0203	Repealed
		.0309	Amended
		.0502	Amended
		.0705 - .0706	Repealed
		.0709 - .0711	Repealed
		.1003	Amended
7D		.1205	Amended
		.1904	Amended
11		.0101 - .0122	Repealed
		.0201 - .0210	Repealed
		.0301 - .0310	Repealed
		.0401 - .0404	Repealed
		.0501 - .0507	Repealed
		.0601 - .0602	Repealed
12		.0101	Amended
		.0404 - .0405	Amended
		.0502	Amended
		.0703	Amended

**DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

14A	NCAC	1A	.0002 - .0004	Amended
		1B	.0201	Repealed
			.0308	Amended
			.0404	Amended
			.0501	Repealed
			.0502	Amended
			.0503 - .0523	Repealed
		1C	.0102	Repealed
		1D	.0101 - .0103	Repealed
			.0201 - .0202	Repealed
			.0301 - .0304	Repealed
			.0401 - .0402	Amended
			.0403 - .0404	Repealed
		3	.0101 - .0104	Repealed
			.0201 - .0202	Repealed
			.0301 - .0306	Repealed
			.0401 - .0405	Repealed
			.0501 - .0502	Repealed
			.0601 - .0611	Repealed
		10A	.0001	Repealed
		10B	.0204 - .0205	Repealed
			.0301 - .0302	Repealed

**DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT**

15	NCAC	1B	.0202	Amended
			.0205 - .0220	Repealed



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*LIST OF RULES AFFECTED*

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	.0608	Amended
1E	.0101 - .0102	Amended
	.0202 - .0204	Amended
	.0302 - .0304	Amended
1F	.0002	Amended
	.0005	Amended
	.0008 - .0009	Amended
1G	.0006	Amended
2A	.0003	Amended
	.0004	Repealed
	.0005	Amended
	.0006	Repealed
	.0008	Repealed
2B	.0202	Amended
	.0211	Amended
	.0213	Amended
	.0311	Amended
	.0315	Amended
	.0406	Amended
2C	.0101 - .0103	Amended
	.0104	Repealed
	.0111	Amended
	.0116	Amended
	.0204	Amended
2D	.0101	Amended
	.0103	Amended
	.0104	Adopted
	.0302	Amended
	.0304	Amended
	.0403	Amended
	.0409	Adopted
	.0501	Amended
	.0524 - .0525	Amended
	.0528 - .0532	Amended
	.0604	Amended
	.0608	Amended
	.0905	Repealed
	.0908	Repealed
	.0909 - .0910	Amended
	.0913	Amended
	.0916	Amended
	.0939 - .0940	Amended
2F	.0201 - .0202	Amended
	.0301 - .0308	Repealed
2G	.0105 - .0106	Amended
	.0402	Amended
2H	.0301	Amended
	.0503 - .0504	Amended
	.0601	Amended
	.0603	Amended
	.0607	Amended
	.0802	Amended
	.0805	Amended
	.0810	Amended
	.0811	Repealed
2I	.0102	Amended
	.0105	Amended
	.0201	Repealed
	.0203	Amended

# *LIST OF RULES AFFECTED*

	.0301	Amended
	.0303 - .0306	Repealed
	.0401	Repealed
2J	.0005	Repealed
2K	.0104	Amended
	.0218	Repealed
	.0401	Amended
2L	.0101 - .0103	Amended
3B	.0117	Amended
3C	.0103	Amended
	.0303	Amended
	.0311	Amended
3E	.0101	Amended
6A	.0003	Repealed
	.0006	Repealed
	.0009	Amended
6B	.0001	Amended
9A	.0003	Repealed
9B	.0001 - .0002	Repealed
9C	.0802 - .0805	Amended
	.0814 - .0816	Amended
	.0820 - .0822	Amended
	.0825	Amended
	.0828	Amended
	.0901	Repealed
10A	.0201	Repealed
	.0204	Repealed
	.0209	Repealed
	.0301 - .0302	Repealed
10B	.0106	Amended
	.0110	Amended
	.0112	Repealed
	.0202 - .0203	Amended
	.0209	Amended
	.0403	Amended
	.0407 - .0408	Repealed
10C	.0202	Repealed
	.0204	Repealed
	.0205	Amended
	.0207	Repealed
	.0210	Repealed
	.0303	Repealed
	.0304 - .0305	Amended
	.0401 - .0402	Amended
	.0403	Repealed
	.0404	Amended
	.0406 - .0407	Amended
10D	.0001	Repealed
	.0002 - .0004	Amended
10F	.0101	Repealed
	.0102 - .0104	Amended
	.0108	Repealed
10G	.0101	Repealed
	.0104 - .0105	Repealed
	.0201	Repealed
	.0204 - .0205	Repealed
	.0301	Repealed
	.0304 - .0306	Repealed
10H	.0101	Amended

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**LIST OF RULES AFFECTED**

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	.0301 - .0302	Amended
	.0401 - .0402	Repealed
	.0408	Repealed
	.0702	Repealed
	.0706	Amended
	.0709	Repealed
	.0809	Amended
	.0901	Amended
	.0902	Repealed
	.1001	Repealed
13K	.0101 - .0102	Repealed
	.0303	Repealed
	.0401 - .0405	Repealed
16A	.0003 - .0004	Repealed
16C	.0107	Amended
	.0307	Amended
	.0403	Amended
	.1003	Amended
16D	.0108	Amended
17A	.0001	Amended
17B	.0102	Amended
	.0502	Amended

**DEPARTMENT OF REVENUE**

17	NCAC 4B	.1303	Repealed
		.1305	Amended
		.1308 - .1309	Adopted
91		.0504	Amended

**DEPARTMENT OF TRANSPORTATION**

19A	NCAC 3D	.0801	Amended
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**BOARD OF CHIROPRACTIC EXAMINERS**

21	NCAC 10	.0201	Amended
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**BOARD OF MORTUARY SCIENCE**

21	NCAC 34	.0109	Amended
		.0110 - .0116	Repealed
		.0119 - .0120	Repealed
		.0123	Amended
		.0125	Amended

**BOARD OF NURSING**

21	NCAC 36	.0219	Temp. Amended Expires 12-25-88
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**BOARD OF PHARMACY**

21	NCAC 46	.2001	Amended
		.2005 - .2011	Adopted
		.2014 - .2016	Adopted

**REAL ESTATE LICENSING BOARD**

21	NCAC 58A	.0107	Amended
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*LIST OF RULES AFFECTED*

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			.0111 - .0112	Adopted
			.0506	Amended
			.0611	Adopted
58B			.0501	Amended

COMMUNITY COLLEGES

23	NCAC	2E	.0202	Amended
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HOUSING FINANCE

24	NCAC	1A	.0003	Repealed
		1B	.0001	Repealed
		1C	.0001	Repealed

OFFICE OF STATE PERSONNEL

25	NCAC	1B	.0302 - .0303	Repealed
			.0305 - .0306	Repealed
			.0308	Repealed
			.0313	Repealed
			.0315 - .0319	Repealed
			.0321	Repealed
			.0324 - .0331	Repealed
			.0336 - .0338	Repealed
			.0341	Repealed
			.0345 - .0353	Repealed
		1C	.0202	Amended
		1J	.0504	Amended

**TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE**

<b>TITLE</b>	<b>DEPARTMENT</b>
1	Administration, Department of
2	Agriculture, Department of
3	Auditor, Department of State
4	Commerce, Department of
5	Corrections, Department of
6	Council of State
7	Cultural Resources, Department of
8	Elections, State Board of
9	Governor, Office of the
10	Human Resources, Department of
11	Insurance, Department of
12	Justice, Department of
13	Labor, Department of
14A	Crime Control and Public Safety, Department of
15	Natural Resources and Community Development, Department of
16	Education, Department of
17	Revenue, Department of
18	Secretary of State, Department of
19A	Transportation, Department of
20	Treasurer, Department of State
*21	Occupational Licensing Boards
22	Administrative Procedures
23	Community Colleges, Department of
24	Housing Finance Agency
25	State Personnel, Office of
26	Administrative Hearings, Office of

NOTE: Title 21 contains the chapters of the various occupational licensing boards.

<b>CHAPTER</b>	<b>LICENSING BOARDS</b>
2	Architecture, Board of
4	Auctioneers, Commission for
6	Barber Examiners, Board of
8	Certified Public Accountant Examiners, Board of
10	Chiropractic Examiners, Board of
12	Contractors, Licensing Board for
14	Cosmetic Art Examiners, Board of
16	Dental Examiners, Board of
18	Electrical Contractors, Board of Examiners of
20	Foresters, Board of Registration for
21	Geologists, Board of
22	Hearing Aid Dealers and Fitters Board
26	Landscape Architects, Licensing Board of
28	Landscape Contractors, Registration Board of
31	Marital & Family Therapy Certification Board
32	Medical Examiners, Board of
33	Midwifery Joint Committee
34	Mortuary Science, Board of
36	Nursing, Board of
37	Nursing Home Administrators, Board of
38	Occupational Therapists, Board of
40	Opticians, Board of
42	Optometry, Board of Examiners in

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